

# Exhibit 5

Page 1

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEW JERSEY

3  
4 IN RE JOHNSON & JOHNSON MDL NO. 16-2738

5 TALCUM POWDER PRODUCTS (MAS) (RLS)

6 MARKETING, SALES PRACTICES,

7 AND PRODUCTS LIABILITY

8 LITIGATION

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11  
12 The In-Person, Virtual Zoom, Telephonic  
13 deposition of GREGORY DIETTE, M.D., MHS was held  
14 on Wednesday, June 19, 2024, commencing at 9:00  
15 a.m., at the Sheraton Baltimore North Hotel, 903  
16 Dulaney Valley Road, Towson, Maryland 21204,  
17 before Susan Wootton, Notary Public.

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23  
24 REPORTED BY: Susan Wootton, RPR, CLR

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 ON BEHALF OF THE NEW JERSEY PLAINTIFFS:</p> <p>3 CHRISTOPHER V. TISI, ESQUIRE</p> <p>4 (In-Person)</p> <p>5 Levin Papantonio Rafferty</p> <p>6 316 South Baylen St.</p> <p>7 Pensacola, FL 32502</p> <p>8 Telephone: 202-302-2138</p> <p>9 Email: CTISI@LEVINLAW.COM</p> <p>10</p> <p>11 ON BEHALF OF PLAINTIFF STEERING COMMITTEE</p> <p>12 AND THE MDL:</p> <p>13 MICHELLE A. PARFITT, ESQUIRE</p> <p>14 (In-Person)</p> <p>15 ASHCRAFT &amp; GEREL, LLP</p> <p>16 4900 Seminary Road, Suite 650</p> <p>17 Alexandria, VA 22311</p> <p>18 Telephone: 703-931-5500</p> <p>19 Email: mparfitt@ashcraftlaw.com</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 APPEARANCES (Continued on the Next Page)</p>	<p style="text-align: right;">Page 4</p> <p>1 Appearances CONTINUED:</p> <p>2 ON BEHALF OF PERSONAL CARE</p> <p>3 PRODUCTS COUNCIL:</p> <p>4 BRANDY HARRIS, ESQUIRE</p> <p>5 (Via Zoom and Phone)</p> <p>6 REILLY, McDEVITT &amp; HENRICH, P.C.</p> <p>7 3 Executive Campus</p> <p>8 Suite 310</p> <p>9 Cherry Hill, New Jersey 08002</p> <p>10 Telephone: 856.317.7188</p> <p>11 Email: bharris@rmh-law.com</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 3</p> <p>1 Appearances CONTINUED:</p> <p>2 ON BEHALF OF PLAINTIFF STEERING COMMITTEE</p> <p>3 AND THE MDL:</p> <p>4 RICHARD GOLOMB, ESQUIRE</p> <p>5 (Via Zoom and Phone)</p> <p>6 Golomb Legal</p> <p>7 130 N. 18th Street</p> <p>8 One Logan Square</p> <p>9 Suite 1600</p> <p>10 Philadelphia, Pennsylvania 19103</p> <p>11 Telephone: 215.985.9177</p> <p>12 Email: rgolomb@golomblegal.com</p> <p>13</p> <p>14 ON BEHALF OF THE DEFENDANTS:</p> <p>15 KATHRYN S. LEHMAN, ESQUIRE</p> <p>16 (In-Person)</p> <p>17 King &amp; Spalding, LLP</p> <p>18 1180 Peachtree Street, N.E.</p> <p>19 Atlanta, GA 30309-3521</p> <p>20 Telephone: 404.572.2716</p> <p>21 Email: klehman@kslaw.com</p> <p>22</p> <p>23</p> <p>24 APPEARANCES (Continued on the Next Page)</p>	<p style="text-align: right;">Page 5</p> <p>1 INDEX</p> <p>2 Deposition of Gregory Diette, M.D.</p> <p>3 June 19, 2024</p> <p>4</p> <p>5 Examination by: Page</p> <p>6 MS. PARFITT 9, 260, 288, 303</p> <p>7 MR. TISI 259, 272</p> <p>8 MS. LEHMAN 278, 301</p> <p>9 INSTRUCTION NOT TO ANSWER:</p> <p>10 Page 171 Line 1</p> <p>11 Exhibit No. Marked</p> <p>12 Exhibit 1 Expert Report of Gregory Diette</p> <p>13 MD, MHS For General Causation</p> <p>14 Daubert Hearing 14</p> <p>15 Exhibit 2 Expert Declaration of</p> <p>16 Gregory Diette, MD, MHS 16</p> <p>17 Exhibit 3 MDL Report of May 28th, 2024 16</p> <p>18 Exhibit 4 Composite of Documents 12</p> <p>19 Exhibit 5 O'Brien Study, Intimate Care</p> <p>20 Products and Incidence of</p> <p>21 Hormone-Related Cancers 30</p> <p>22 Exhibit 6 Daubert Order of April 27th</p> <p>23 of 2020 37</p> <p>24 INDEX CONTINUED:</p>

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<p style="text-align: right;">Page 10</p> <p>1 Q Dr. Diette, you understand that your 2 deposition here today is being taken not only in 3 the multidistrict litigation, but also the MCL, 4 the Jersey coordinated litigation? 5 A That's my understanding. 6 Q All right. Now, your last deposition, 7 or MDL deposition, was back in April, April 19th 8 of 2019; is that correct? 9 A That sounds right. 10 Q What have you done if anything to 11 prepare for the deposition today? 12 A So I reviewed my -- my updated 13 reports, like the more recent ones. I reviewed, 14 you know, some of the literature, you know, 15 particularly the -- the newer literature that's 16 new since 2019. 17 I read several -- well, portions of 18 several expert reports, both plaintiff and defense 19 experts. I don't remember how many, but it's 20 quite a -- quite a number of the reports. 21 Q Okay. 22 A And I looked at their updated ones as 23 opposed to the ones that were, you know, from back 24 in 2019.</p>	<p style="text-align: right;">Page 12</p> <p>1 A Yes. 2 Q -- because I see you have stickies on 3 some and I think some highlights. 4 A Your colleague was asking if he could 5 look at them. 6 MR. TISI: Why don't I take a look at 7 them, Michelle? 8 MS. PARFITT: That's fine, too. 9 A Okay. 10 Q But let's have the composite of 11 documents marked first as Diette Exhibit Number 1, 12 and again, it will reflect -- 13 MR. TISI: Michelle, I already 14 premarked 1, 2 and 3. Make this number 4. 15 (Diette Exhibit 4 was marked for 16 purposes of identification.) 17 MS. PARFITT: This can now be Exhibit 18 Number 4. Thanks, Dr. Diette. 19 Dr. Diette, quickly, you mentioned 20 that you read some of the plaintiff's at least 21 updated expert reports. Do you recall which 22 plaintiff's experts depositions you read? 23 A I hope I have a list of everything I 24 received. I won't remember all of them. I'm</p>
<p style="text-align: right;">Page 11</p> <p>1 I read a rough draft of Dr. Merlo's 2 deposition transcript and I'm trying to -- I 3 think -- I think that is the basics of what I did. 4 Q All right. Before I ask you a few 5 questions with regard to the materials that you've 6 looked at, you have quite a stack in front of you. 7 Does that stack of materials reflect 8 the items that you've just spoken about? 9 A No. No, these were -- so, this stack 10 is from you, right? So, this happened -- this is 11 going to be redundant, because these are two of 12 the reports that you gave me a copy of as well. 13 Oh, and this is the third one here. 14 This is just a handful of articles 15 that were some of the newer ones that I thought 16 if, you know, if I could refer to my own copy of 17 instead; but I think they're ones that I've cited 18 in my report and so forth. 19 Q Very good. What we'll do -- I'm not 20 going to use the time now, what we will do at the 21 conclusion of the deposition -- is mark that stack 22 of documents as a composite exhibit and also 23 the -- make them available so we can get them 24 copied where you have the stickies --</p>	<p style="text-align: right;">Page 13</p> <p>1 sure, you know, Dr. Smith-Bindman would be one. 2 And if -- you don't have to, 3 obviously -- if you want to help and list some of 4 them, I can tell you if they're ones that I looked 5 at. But they're -- I think there were probably 6 like a dozen or so that I looked at. 7 Q All right. You have quite a few 8 listed on your appendices that are attached to 9 your expert report. 10 Can I assume you looked at all of 11 those or just some of those? 12 A Just some of them, and not completely 13 in every case either. 14 Q All right. And they would be 15 Dr. Singh's. Do you remember looking 16 at Dr. Singh's? 17 A I do. 18 Q Do you remember looking at 19 Dr. Smith-Bindman? 20 A Yes. 21 Q Do you remember looking at 22 Dr. McTiernan? 23 A Yes. 24 Q Dr. Siemiatycki?</p>

<p style="text-align: right;">Page 14</p> <p>1 A Yes.</p> <p>2 Q Dr. Cote?</p> <p>3 A Maybe. I can't remember that one.</p> <p>4 Q Dr. Harlow?</p> <p>5 A Yes.</p> <p>6 Q Very good. Doctor, you have in front</p> <p>7 of you what we've had marked as Exhibit Number 1.</p> <p>8 I believe it's a copy of your expert report from</p> <p>9 2019. If you can get that in front of you.</p> <p>10 (Diette Exhibit 1 was marked for</p> <p>11 purposes of identification.)</p> <p>12 A Yes.</p> <p>13 Q All right. Now referencing your</p> <p>14 attention to page 4 of that document. Do you see</p> <p>15 that?</p> <p>16 A I do.</p> <p>17 Q All right. And there's a subtitle of</p> <p>18 "methodology." Do you see that?</p> <p>19 A I do.</p> <p>20 Q All right. In your 2019 expert</p> <p>21 report, is it fair to say that using appropriate</p> <p>22 methodology that you have opined that there's</p> <p>23 insufficient evidence to support a causal</p> <p>24 connection between perineal use of talc and</p>	<p style="text-align: right;">Page 16</p> <p>1 And then there is one that is the MDL</p> <p>2 Report, I believe it's Exhibit Number 2. Is that</p> <p>3 right, Chris?</p> <p>4 (Diette Exhibit 2 was marked for</p> <p>5 purposes of identification.)</p> <p>6 MR. TISI: Well, yes.</p> <p>7 A So, I'm just going to tell you what</p> <p>8 I'm looking at, because for me Exhibit Number 2 is</p> <p>9 Carl and Balderrama. Then, Exhibit 3 is the MDL</p> <p>10 with a different date on it.</p> <p>11 (Diette Exhibit 3 was marked for</p> <p>12 purposes of identification.)</p> <p>13 MR. TISI: A different date?</p> <p>14 A A different date than you mentioned.</p> <p>15 Q All right. Let's look at Exhibit 3,</p> <p>16 which is the MDL Report which is dated May 28th,</p> <p>17 2024. Do you have that in front of you?</p> <p>18 A I do.</p> <p>19 Q All right. Now, those opinions</p> <p>20 contained in your May 28th, '24 MDL deposition or</p> <p>21 report also have a category on page 4 entitled</p> <p>22 "Methodology." If you would please turn to</p> <p>23 page 4.</p> <p>24 A Yes.</p>
<p style="text-align: right;">Page 15</p> <p>1 ovarian cancer?</p> <p>2 MS. LEHMAN: I'm just going to object</p> <p>3 here. I object to any questions about the 2019</p> <p>4 report. Those questions could have been and</p> <p>5 should have been asked during the 2019 deposition.</p> <p>6 So, to the extent that this -- you're</p> <p>7 going to ask questions about the 2019 report, we</p> <p>8 object.</p> <p>9 MS. PARFITT: Objection noted. These</p> <p>10 are foundational. I'm not going to be asking</p> <p>11 anything about the 2019 report. Two questions are</p> <p>12 foundational.</p> <p>13 So, did you get my -- Doctor, again,</p> <p>14 in your 2019 expert report, is it fair that your</p> <p>15 opinions are using appropriate methodology that</p> <p>16 there was no -- or there was insufficient evidence</p> <p>17 to support a causal connection between perineal</p> <p>18 use of talc and ovarian cancer?</p> <p>19 MS. LEHMAN: The same objection.</p> <p>20 A Yes.</p> <p>21 Q All right. Now if you'll look at your</p> <p>22 expert report for April 25, 2024 -- and you can do</p> <p>23 the MDL Report first -- one says Carl and</p> <p>24 Balderrama. That is the New Jersey report.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q Do you have that in front of you?</p> <p>2 A Yes.</p> <p>3 Q Very good. Again, is it your opinion</p> <p>4 that, using appropriate methodology, that you have</p> <p>5 opined that "there is insufficient evidence to</p> <p>6 support a causal connection between perineal Talc</p> <p>7 use (inclusive of constituents those products may</p> <p>8 contain in addition to talc) and ovarian cancer."</p> <p>9 Have I read that correctly?</p> <p>10 A That is my opinion, but it looks a</p> <p>11 little different wording-wise on page 2, and I'm</p> <p>12 not sure --does that --</p> <p>13 Q Page 4.</p> <p>14 A No. I know page 4 -- does it -- does</p> <p>15 it say that on page 4? Oh, yeah. I'm sorry, I</p> <p>16 see that now, okay. Yes, and you read it</p> <p>17 correctly. Thank you.</p> <p>18 Q So, indeed, on May 28th, '24, and in</p> <p>19 your report of 2019, the methodology that you</p> <p>20 employed for purposes of your opinions that you'll</p> <p>21 be sharing with the jury are the same; is that</p> <p>22 correct?</p> <p>23 A That's correct.</p> <p>24 Q Okay. Now, you state in the 2024</p>

<p style="text-align: right;">Page 18</p> <p>1 report, the addition is a comment "inclusive of 2 constituents, those products may contain in 3 addition to Talc." Do you see that? 4 A I do. 5 Q All right. What was the purpose for 6 that addition? 7 A I may of had something like that 8 somewhere else in the other report, or I mean, I 9 don't remember if I was just updating what I 10 thought. 11 It's not a new opinion for me. It's 12 just the concept is -- is that the studies that 13 look at perineal use of talcum powder, they don't 14 identify what the constituents are individually. 15 So I think that the epidemiology, by 16 and large, speaks to whatever it is that women are 17 reporting as perineal application of Talc. 18 Q So you're referring to whatever is 19 contained in the bottle of baby powder, correct? 20 A That's correct. 21 Q All right. Very good. Now, there is 22 one additional report -- which I understand is 23 Exhibit Number 2 -- and that is your May 28th, 24 2024 report that was filed in the MCL, which is</p>	<p style="text-align: right;">Page 20</p> <p>1 A It seems approximately right. 2 Q Okay. Now, you if you would turn to 3 your 2024 report, and specifically page 2. 4 A This is the MDL? 5 Q That is the MDL Report, which I 6 understand is Number 3. 7 THE REPORTER: Which you understand is 8 what? 9 MS. PARFITT: Exhibit Number 3. 10 MS. HARRIS: I apologize for 11 interrupting, but we've lost sound in the room. 12 MR. TISI: Can you hear now at all? 13 THE WITNESS: We're getting that same 14 error message. 15 MR. TISI: Let's go off the record. 16 THE REPORTER: Sure. We are. 17 (There was a break in the proceedings at 9:37 18 and testimony resumed at 9:45 am) 19 MS. PARFITT: Dr. Diette, you have in 20 front of you what's been marked as Diette Report 21 Exhibit 3, the MDL report of May 28th, 2024. 22 You should have Exhibit 1, which is 23 your original report 2/25/19. 24 A That's correct.</p>
<p style="text-align: right;">Page 19</p> <p>1 the New Jersey litigation. Do you see that? 2 A I see it, but I don't see a date on 3 it. 4 Q You are correct. There is not a date. 5 So if you could take my representation that that 6 report was filed in May -- on May 28th -- excuse 7 me, May 21st of 2024? 8 A Yes. 9 Q And that report was filed, the New 10 Jersey report was filed about seven days or so 11 before the multidistrict report, correct? 12 A Did you say May 21st or May 28th? 13 Q You know what I should have said? 14 A Yeah. 15 Q Your New Jersey report was filed 16 April 25th. 17 A April 25th? 18 Q 2024. 19 A That sounds about right. I know it -- 20 I know it predated the MDL Report. 21 Q Okay. So let's correct the record 22 that Exhibit Number 2 that you have in front of, 23 which is the New Jersey report which is not dated, 24 is a date of April 25th, 2024.</p>	<p style="text-align: right;">Page 21</p> <p>1 Q All right. If you would turn to the 2 section of "scope of the report," which would 3 appear on page 2 of both reports; your MDL '24 4 report and your MDL 2019 report. 5 A In "Summary of Opinions?" 6 Q Actually, just "scope of the report." 7 A Oh, because it's Scope of Report on 8 the older one, but Summary of Opinions is on 9 page 2 of the newer report. 10 Q That is correct. That is correct. 11 And your '19 report is on page 2, Scope of Report, 12 and I have on your new report, page 1 -- 13 A Got it. 14 Q -- scope of Report. 15 A So you would like Scope of Report for 16 both? 17 Q Correct -- 18 A Got it. 19 Q -- if you will. 20 A Yes. 21 Q All right. In reading and comparing 22 your 2019 MDL report with your 2024 report, you 23 edit the scope of your report as follows: 24 You state, "I understand that</p>

<p style="text-align: right;">Page 22</p> <p>1 plaintiffs in this proceeding allege that the</p> <p>2 exposure to talcum powder products containing</p> <p>3 asbestos or other constituent parts poses an</p> <p>4 ovarian cancer risk."</p> <p>5 "I further understand that</p> <p>6 Johnson &amp; Johnson disputes that its talcum powder</p> <p>7 contains asbestos or other carcinogens."</p> <p>8 "It is my opinion to a reasonable</p> <p>9 degree of scientific certainty that the science</p> <p>10 does not support an ovarian cancer risk from</p> <p>11 exposure to talcum powder products, even if those</p> <p>12 products were to contain trace amount of</p> <p>13 asbestos." Did I read that correctly?</p> <p>14 A Yes.</p> <p>15 Q All right. Dr. Diette, what was the</p> <p>16 bases for adding that additional paragraph to your</p> <p>17 2024 report?</p> <p>18 A I don't remember exactly what</p> <p>19 motivated it. I can tell you that in general, you</p> <p>20 know, I had a chance to read through the entire</p> <p>21 old report.</p> <p>22 So in some cases, I just made updates</p> <p>23 based on reading it that I thought would, you</p> <p>24 know, read better or be more complete.</p>	<p style="text-align: right;">Page 24</p> <p>1 A No. It's not. It's -- and</p> <p>2 respectfully I just say that because I understand</p> <p>3 there is a debate about that among people who have</p> <p>4 the expertise, in order to identify minerals of</p> <p>5 certain types.</p> <p>6 And I've seen folks on both sides --</p> <p>7 both for plaintiffs and defense -- articulate</p> <p>8 whether there is or is not asbestos, whether it's</p> <p>9 trace amounts or some other amount. But I don't</p> <p>10 have the expertise to referee that.</p> <p>11 So that's what I'm trying to say. But</p> <p>12 I acknowledge that it might be; but I'm not the</p> <p>13 person to be able to say that I know that it is</p> <p>14 there or that it isn't there or ever was or never</p> <p>15 was there.</p> <p>16 Q So you have seen evidence from reports</p> <p>17 of individuals who are trained and have expertise</p> <p>18 in that area that they have seen trace -- they</p> <p>19 have seen asbestos in the talcum powder products;</p> <p>20 is that fair?</p> <p>21 A I have seen that.</p> <p>22 Q All right. Now, let me unpack this a</p> <p>23 little bit. You are a medical doctor, correct?</p> <p>24 A I am.</p>
<p style="text-align: right;">Page 23</p> <p>1 This information about what was being</p> <p>2 alleged, I don't think is new, but I brought it in</p> <p>3 just to be more -- more complete.</p> <p>4 Q All right. I have a question about</p> <p>5 that. In the last sentence of your MDL '24</p> <p>6 report, Exhibit Number 3, you state, "it is my</p> <p>7 opinion to a reasonable degree of scientific</p> <p>8 certainty that the science does not support an</p> <p>9 ovarian cancer risk from exposure to talcum powder</p> <p>10 products, even if those products were to contain</p> <p>11 trace amounts of asbestos."</p> <p>12 Is it your opinion that talcum powder</p> <p>13 products contain trace amounts of asbestos?</p> <p>14 A No. I don't have an opinion about</p> <p>15 whether they do or don't.</p> <p>16 Q So, understanding what you'll be</p> <p>17 testifying in court on, is that you have no</p> <p>18 opinion one way or another whether or not talcum</p> <p>19 powder contains asbestos --</p> <p>20 MS. LEHMAN: Objection to form.</p> <p>21 Q -- even at trace levels?</p> <p>22 A So, I think to be clear, I</p> <p>23 understand --</p> <p>24 Q That's a yes or no, Dr. Diette.</p>	<p style="text-align: right;">Page 25</p> <p>1 Q All right. And you are also in the</p> <p>2 field of public health, correct?</p> <p>3 A That's right.</p> <p>4 Q All right. Is it your opinion,</p> <p>5 sitting here today in 2024, that it safe for a</p> <p>6 woman to apply and rub asbestos in her vagina?</p> <p>7 MS. LEHMAN: Object to form.</p> <p>8 A So, I don't know. I mean, it would</p> <p>9 depend. If you're just talking about plain old</p> <p>10 asbestos -- and there was a certain quantity that,</p> <p>11 for example, was a known health risk, then -- then</p> <p>12 I would not expect that it was. If we're talking</p> <p>13 about --</p> <p>14 Q That was what? That it was safe?</p> <p>15 A Well, no, I was talking about the</p> <p>16 opposite. I was talking about the opposite.</p> <p>17 So I mean, if somebody is handling</p> <p>18 asbestos, of a form that is friable, for example,</p> <p>19 and it's of a type and somebody can articulate</p> <p>20 that there's a dose that can cause harm to</p> <p>21 someone, then I would say, no, they shouldn't do</p> <p>22 that. That that's not safe.</p> <p>23 Q Dr. Diette, I'm afraid that doesn't</p> <p>24 answer my question. Mine is very simple. I'll</p>

<p style="text-align: right;">Page 26</p> <p>1 break it down.</p> <p>2 Is it your opinion as a scientist and</p> <p>3 a medical doctor that it is safe for a woman to</p> <p>4 take asbestos and rub it in her vagina?</p> <p>5 MS. LEHMAN: Object to form. Asked</p> <p>6 and answered.</p> <p>7 A Yeah, I can't -- I mean, I can't do</p> <p>8 any better than I did, because it needs to be</p> <p>9 qualified in some way the way that I did. Because</p> <p>10 it's not a yes/no.</p> <p>11 If you said would it be safe, for</p> <p>12 example, to put, you know, one particle of</p> <p>13 chrysotile asbestos in her vagina, I don't think</p> <p>14 that sounds like it has any danger to me.</p> <p>15 So it has to be qualified by the, you</p> <p>16 know, the dose and the fiber type and so forth;</p> <p>17 and what, realistically, someone can estimate</p> <p>18 would get into the person's body.</p> <p>19 Q In their vagina, in this case, into</p> <p>20 their reproductive system?</p> <p>21 A Well, so, I'm not aware that asbestos</p> <p>22 causes vaginal cancer. So there would have to be</p> <p>23 some dose that would reach an organ that somebody</p> <p>24 thought was susceptible.</p>	<p style="text-align: right;">Page 28</p> <p>1 again.</p> <p>2 THE REPORTER: I'm sorry. What is it?</p> <p>3 (Technical interference.)</p> <p>4 THE WITNESS: I'm sorry?</p> <p>5 MS. HARRIS: We can't hear again.</p> <p>6 THE WITNESS: Can you hear me now?</p> <p>7 MS. HARRIS: I can hear you.</p> <p>8 A Okay. Should I continue my answer?</p> <p>9 Q Well, let me be very clear about my</p> <p>10 question.</p> <p>11 A Sure.</p> <p>12 Q I did not pose my question as a</p> <p>13 hypothetical. My question to you was simply this.</p> <p>14 In your opinion as a medical person</p> <p>15 and scientist, is it safe for a woman to take</p> <p>16 asbestos and rub it in her vagina?</p> <p>17 MS. LEHMAN: Object to form.</p> <p>18 A It isn't a yes/no, but I understand --</p> <p>19 and I understand that you're not qualifying it as</p> <p>20 a hypothetical; but to me it is hypothetical,</p> <p>21 because we're not talking about a specific</p> <p>22 circumstance where someone did something.</p> <p>23 I don't understand any circumstance</p> <p>24 that exists in reality where a woman would have</p>
<p style="text-align: right;">Page 27</p> <p>1 Q Well, let's talk about ovarian cancer.</p> <p>2 Taking that asbestos and placing it in vagina and</p> <p>3 then it reaching the ovarian cancer -- reaching</p> <p>4 the ovaries.</p> <p>5 That was what I was speaking of. I</p> <p>6 wasn't talking about vaginal cancer. I was</p> <p>7 talking about ovarian cancer.</p> <p>8 A Oh, yeah, no. I understand. But you</p> <p>9 said "placed in the vagina" and I don't know of</p> <p>10 any risk there would be to the vagina itself. It</p> <p>11 would have to migrate somehow to another organ.</p> <p>12 Q Would there be a potential risk to the</p> <p>13 ovaries and the fallopian tubes?</p> <p>14 A I don't know. I think that there is</p> <p>15 evidence that supports -- and again, I know yours</p> <p>16 is a hypothetical. I don't know if it's a</p> <p>17 realistic hypothetical --</p> <p>18 Q Actually, mine is not a hypothetical.</p> <p>19 If you could just answer the question.</p> <p>20 MS. LEHMAN: Object to form.</p> <p>21 A Well, rubbing asbestos or putting</p> <p>22 asbestos in one's vagina, I think is hypothetical,</p> <p>23 because I've never --</p> <p>24 MS. HARRIS: We've lost the sound</p>	<p style="text-align: right;">Page 29</p> <p>1 any reason to take asbestos and put it in her</p> <p>2 vagina. But assuming that, I think my</p> <p>3 qualifications that I said before my answer --</p> <p>4 MS. HARRIS: My apologies, but there</p> <p>5 is no volume again.</p> <p>6 (There was a break in the proceedings.)</p> <p>7 at 9:55 am and testimony resumed at 10:00 am)</p> <p>8 MS. PARFITT: All right. Let's move</p> <p>9 on.</p> <p>10 THE REPORTER: Okay.</p> <p>11 MS. PARFITT: All right. Dr. Diette,</p> <p>12 the purpose of this deposition, as you understand,</p> <p>13 is to update your 2019 MDL Report and your Jersey</p> <p>14 report with new material that perhaps had come out</p> <p>15 in the literature; is that correct?</p> <p>16 A That's my understanding.</p> <p>17 Q All right. You have done that not</p> <p>18 only for the Jersey State Court Litigation in your</p> <p>19 April 25th, 2024 report, correct?</p> <p>20 A That's right.</p> <p>21 Q And you also did that in your</p> <p>22 May 28th, 2024 MDL report?</p> <p>23 A I did. I just want to point out they</p> <p>24 are not identical, because I think I hadn't</p>



<p style="text-align: right;">Page 30</p> <p>1 finished my write-up about O'Brien 2024 in the 2 earlier submission. But I had by the May 28th. 3 Q You anticipated my next series of 4 questions. At the time of your April 25th, 2024 5 report, you did not have access to the 6 O'Brien 2024 study; is that correct? 7 A I don't remember the dates exactly of 8 when I got it. But whether I had it or not, I 9 certainly hadn't completed my review of it by 10 April 25th. 11 Q All right. Let's have marked as now 12 Exhibit Number 5, the O'Brien study. 13 (Diette Exhibit 5 was marked for 14 purposes of identification.) 15 Q Dr. Diette, what you have in front of 16 you is Exhibit 5, which I will identify for the 17 record is a study by Doctors O'Brien, et al., 18 Wentzensen, Sandler and others, entitled, 19 "Intimate Care Products and Incidence of 20 Hormone-Related Cancers: A Quantitative Bias 21 Analysis;" is that correct? 22 A That is correct. 23 Q And that article was published in the 24 Journal of Clinical Oncology, correct?</p>	<p style="text-align: right;">Page 32</p> <p>1 downloading a copy of that as well, correct? 2 A That's right. 3 Q All right. And after reviewing that 4 study -- that study being Exhibit Number 5 -- you 5 incorporated in your May 28th, 2024, the O'Brien 6 works performed in 2024? 7 A That's correct. 8 Q All right. All right. We're going to 9 set that aside and we will come back to it in just 10 a moment. 11 Is it fair to say that the methodology 12 that you employed -- for purposes of giving all 13 the opinions you're going to be sharing with us 14 today -- are the same methodologies that you used 15 back in 2019? 16 A Yeah. It's all fundamentally the 17 same, same methodology. 18 Q So the methods that you employed with 19 regard to assessing causality in 2019 remain the 20 same methodology that you used in 2024? 21 A Correct. 22 Q All right. Now is the methodology 23 that you employed for purposes of assessing 24 causality for your report in 2024, the same</p>
<p style="text-align: right;">Page 31</p> <p>1 A That is correct. 2 Q All right. That was published some 3 time in -- I believe it was made available 4 May 15th, 2024? 5 A Yeah. That's what it says on it. 6 Q All right. Now, at the -- how did you 7 obtain a copy of O'Brien 2024, now referred to as 8 Exhibit 5? 9 A Initially I heard about it from the 10 lawyers from Johnson &amp; Johnson who inquired 11 whether I had seen it and read it. 12 Q All right. 13 A And I think I might have gotten a copy 14 from them, but I also downloaded a copy from, you 15 know, from PubMed as well. 16 Q Who from Johnson &amp; Johnson inquired of 17 you as to whether or not you had seen this new 18 publication? 19 A I think it was likely Lucy Wilson. 20 And when I'm saying "Johnson &amp; Johnson," I mean, 21 lawyers who represent them -- 22 Q Of course. 23 A -- as opposed to the company itself. 24 Q Of course. Okay. And you also recall</p>	<p style="text-align: right;">Page 33</p> <p>1 methodology that you used when you testified 2 before Judge Wolfson in the Daubert proceeding 3 back in July of 2019? 4 A Yes, yeah. The fundamentals are all 5 the same. 6 Q All right. At the time that you 7 addressed Judge Wolfson, Chief Judge Wolfson -- 8 who was overseeing the multidistrict litigation -- 9 you had reviewed the literature? 10 A Yeah, the available literature to 11 date. 12 Q All right. You had assessed the 13 Bradford Hill factors in determining causality? 14 A I had. 15 Q All right. You considered the 16 influence on study findings of bias, confounding 17 and other sorts of errors, correct? 18 A Yeah, in addition to the Bradford Hill 19 considerations. 20 Q All right. And you also looked at the 21 different study designs, their strengths and their 22 weaknesses, correct? 23 A Correct. 24 Q All right. You've also had an</p>

<p style="text-align: right;">Page 34</p> <p>1 opportunity to review the expert reports of some 2 of the plaintiff's experts who are testifying, 3 correct? 4 A That is correct. 5 Q All right. And based upon your review 6 of the updated reports of the plaintiff's 7 experts -- and comparing them to their reports 8 that they also prepared back in 2018 -- you 9 understand that those experts also employed the 10 same methodology? 11 A It seemed -- it seemed so to me. I 12 didn't see any, you know, fundamental differences 13 in the methodology. 14 Q So any criticisms that you may share 15 with me today about the plaintiff's experts -- 16 sitting here in 2024 -- are the same criticisms 17 that you had with regard to methodology back in 18 2019; is that fair? 19 MS. LEHMAN: Object to form. 20 A Let me just think for a moment. So, I 21 think so. I mean, the details may be different 22 because part of it is the application of the 23 methodology, which I understand is not your 24 question. I just want to make sure --</p>	<p style="text-align: right;">Page 36</p> <p>1 don't know how many, but more than one. 2 Q All right. 3 A And actually, let me qualify that. I 4 actually don't know if it was more than one. I 5 think, Dr. McTiernan, I think, testified. 6 I don't recall others who may have 7 testified on -- if we're talking about 8 epidemiology. 9 Q Correct. 10 A Yeah. I don't know if there were 11 others, but Dr. McTiernan was one. 12 Q Judge Wolfson, back in 2019 and then 13 more recently in 2020, had an opportunity to hear 14 from those experts for the plaintiff who testified 15 not only as to methodology, but as to their 16 opinions that talcum powder products used in the 17 genital area can cause ovarian cancer; is that 18 correct? 19 MS. LEHMAN: Object to form. 20 A So, yeah. I mean, she had a chance to 21 hear what they expressed. 22 Q Okay. And they expressed their 23 opinions that talcum powder products used in the 24 genital area can cause ovarian cancer?</p>
<p style="text-align: right;">Page 35</p> <p>1 Q Sure. 2 A -- I'm sorting the two. But I think 3 if we're talking about, for example, their 4 application of Bradford Hill considerations, if 5 that's one of them, then I have the same 6 fundamental criticism of how they applied those. 7 Q All right. Now, do you understand 8 that -- you testified before Judge Wolfson back in 9 2019, correct? 10 A Yes. 11 Q All right. And back in 2019 when you 12 testified before Judge Wolfson -- on the 13 methodology that you employed for your opinions 14 and the methodology that the plaintiff's experts 15 employed for their opinions -- you also rendered 16 an opinion with regard to causality; is that 17 correct? 18 A Yes. 19 Q Okay. Now, do you understand that 20 Judge Wolfson -- during the Daubert proceedings -- 21 also had a chance and opportunity to hear from 22 some of the plaintiff's experts on general 23 causation? 24 A Yeah. I know that she heard from -- I</p>	<p style="text-align: right;">Page 37</p> <p>1 A Yeah. I think basically that -- yes. 2 Q Okay. Now are you or were you made 3 aware of the fact that there was a Daubert Order 4 that was issued, after the testimony, of, not only 5 you on general causation for, on behalf of 6 Johnson &amp; Johnson, but also by those experts that 7 were testifying on behalf of the consumers, the 8 plaintiffs? 9 A I'm aware of that. 10 Q Okay. Did counsel make you aware of 11 the actual Daubert Decision that was rendered by 12 Judge Wolfson? 13 A Yeah, I mean, I read the document. 14 Q Okay. So you actually read the 15 April 27th, 2020 Daubert Order? 16 A I don't know the date, but I assume 17 we're talking about the same thing. 18 Q All right. Let's have marked for 19 purposes of the record the Daubert Order, which I 20 will represent to you was April 27th of 2020. 21 MR. TISI: That's Exhibit 6, right? 22 (Diette Exhibit 6 was marked for 23 purposes of identification.) 24 Q All right. You have in front of you</p>

<p style="text-align: right;">Page 38</p> <p>1 Exhibit 6, which is the Daubert Order and I 2 believe it states it's April 27th, 2020, correct? 3 A Yeah. It says it's filed then. I 4 don't know if that means that is the date of the 5 document, but it says -- it says that date on the 6 top of it. 7 Q All right. I understand you had a 8 chance or an opportunity to read that document, 9 that order? 10 A Yeah, back -- back in 2020. 11 Q All right. Do you understand that 12 Judge Wolfson -- the court overseeing this 13 litigation -- considered and accepted the 14 methodology that the experts on behalf of the 15 plaintiffs shared, as it pertains to general 16 causation, and supported their opinions and issued 17 a ruling that their general causation opinions 18 were permitted in a court of law? 19 A Were permitted -- 20 MS. LEHMAN: Object to form. 21 A Were permitted? 22 Q Were permitted? 23 A Permitted? Yeah, that's my 24 understanding.</p>	<p style="text-align: right;">Page 40</p> <p>1 A Thank you. 2 Q All right. Again, for the record, 3 Dr. Diette, I'll present you with Exhibit 4 Number 8, which we've previously now marked as 5 Diette Exhibit Number 8. That is your CV? 6 A It is. 7 Q All right. What date or dates did you 8 prepare the CV? 9 A Oh, it wasn't one date. It's like a 10 thousand dates between when it was first 11 created -- 12 Q Fair enough. 13 A -- and then updated. 14 Q All right. Very good. Does this 15 Exhibit 8, your CV, represent the most current 16 state of your professional and medical experience? 17 A So, I would say my professional 18 experience is up to date on here. I don't think 19 every publication or presentation or, you know, 20 other, sort of the more, what I would say more 21 minor things, as opposed to like what my job is. 22 It's always out of date a little bit. 23 Q Are there any edits or changes that 24 you would like to make, sitting here today, that</p>
<p style="text-align: right;">Page 39</p> <p>1 Q All right. Let's go ahead and mark 2 next as Exhibit Number 7, and I believe that's 3 your Notice of Deposition. 4 (Diette Exhibit 7 was marked for 5 purposes of identification.) 6 Okay. Dr. Diette, do you have a copy 7 of the Notice of Deposition? Did counsel make 8 that available to you? 9 A They did make it available, but I did 10 not bring one. 11 Q Okay. Well, we're going to leave a 12 placeholder until Mr. Tisi finds the notice in our 13 exhibit box and move on to your CV, which we'll 14 now have marked as, I guess that would be 15 Exhibit 8. 16 (Diette Exhibit 8 was marked for 17 purposes of identification.) 18 Q I didn't get a copy of that. 19 A Yeah. I don't need one unless you 20 want me to look at something specific? 21 MR. TISI: No. We have to mark it, 22 though. 23 THE WITNESS: I see. 24 MR. TISI: Here you go.</p>	<p style="text-align: right;">Page 41</p> <p>1 you would consider substantial and relevant? 2 A No. 3 Q Okay. Now, included in that 4 deposition were a couple of attachments. There 5 were -- or attached to it, were -- we had invoices 6 and I believe we also had an updated list of trial 7 experiences. 8 A It was probably trial and deposition, 9 if I'm not mistaken. 10 Q Fair enough. 11 A Yeah. 12 Q Very good. Okay. 13 MR. TISI: If you want it, I found the 14 response to the deposition. 15 MS. PARFITT: All right. Dr. Diette, 16 again, referencing your CV where you need to, do 17 you still currently hold the appointment of 18 Professor of Medicine, Division of Pulmonary and 19 Critical Care Medicine at Johns Hopkins 20 University? 21 A Yes. 22 Q All right. Is it true that your 23 employer, Johns Hopkins -- not 24 Johnson &amp; Johnson -- recognizes you as a</p>



<p style="text-align: right;">Page 42</p> <p>1 pulmonologist, an expert in diagnosis and 2 treatment of patients with common conditions, such 3 as asthma, COPD, chronic pulmonary disease and 4 other types of lung conditions? 5 A I hope so. 6 Q Okay. Is it fair to say that 7 Johns Hopkins -- not Johnson &amp; Johnson -- does not 8 recognize you as a cancer specialist? 9 A Well, yeah, they would not. 10 Q Okay. 11 A I mean, I just want to qualify it. I 12 mean, I think I know what you mean by "cancer 13 specialist." 14 I mean, part of my job is to work in 15 the cancer center and to provide care to patients 16 who have cancer. Everybody in the cancer center 17 has cancer. 18 But I think, if I understand your 19 question, I mean, I'm not the person that they 20 would expect to administer chemotherapy or 21 radiation therapy, but I am still expected to 22 provide care to patients with cancer. 23 Q Treatment and care to patients with 24 cancer, but you are not a cancer researcher,</p>	<p style="text-align: right;">Page 44</p> <p>1 A Both, that's right. 2 Q Okay. You are not board certified in 3 gynecological or oncology medicine? 4 A Correct. 5 Q All right. Since 2019, have you 6 expanded your practice in any way to consult with 7 women with gynecological diseases? 8 A I haven't expanded it, no. 9 Q Okay. Since 2019, have you counseled 10 women with regard to the diagnosis, prevention and 11 treatment of ovarian cancer? 12 A I have not. 13 Q Since 2019, have you become current on 14 the adjuvant therapies that are recommended to 15 women who have ovarian cancer? 16 A I mean, I may have seen occasions 17 where, you know, I saw what someone was getting 18 at; but I haven't tried to make a comprehensive 19 study of what those treatments are or, you know, 20 what the indications are. 21 Q You certainly do not recommend chemo 22 adjuvant therapies to women with ovarian cancer? 23 A That's a -- that's an odd question. 24 I'm not the person who makes the recommendation.</p>
<p style="text-align: right;">Page 43</p> <p>1 correct, in the area of women's reproductive 2 health? 3 MS. LEHMAN: Object to form. 4 A I would agree with that. 5 Q Okay. Now, is it true today, here in 6 2024, that none of your research focuses on 7 cancer, and I quote? 8 MS. LEHMAN: Object to form. 9 A Was there a quote? 10 Q That's -- that's the question. No. 11 No. No. I'm quoting to you. Is it true today 12 that none of your research focuses on cancer? 13 A Not per se. I mean, over time, I've 14 done some work on lung nodules, which the 15 implication is whether or not they're cancer. But 16 I'm not doing, you know, primary cancer research. 17 Q That's fair enough. Would it be fair 18 to say your research and interests include 19 environmental impacts on lung disease, 20 epidemiology of airways disease and chronic 21 obstructive pulmonary disease? 22 A Absolutely includes all of those. 23 Q You're still board certified in 24 pulmonary medicine and internal medicine?</p>	<p style="text-align: right;">Page 45</p> <p>1 Q That's fine. 2 A What I mean is, like, I don't not 3 recommend it. Like if somebody else said "you 4 should get this," I don't say, "no, you 5 shouldn't." 6 Q All right. 7 A But I'm not the person who prescribes 8 it. 9 Q That's correct. 10 A Yeah. 11 Q Okay. Very good. All right. Is it 12 true that you still have not authored or published 13 any research materials on talc and ovarian cancer? 14 A Correct. 15 Q Is it also true that any articles that 16 you've authored that remotely touched on cancer 17 are primary related to lung cancers, not female 18 reproductive cancers? 19 A Correct. 20 Q And it is also true that you've done 21 no research or independent writings on the issue 22 of talc and ovarian cancer? 23 A Correct. 24 Q And it is also true that you've not</p>

<p style="text-align: right;">Page 46</p> <p>1 received any grant monies by any health 2 organization -- NIH, NCI, NIEHS -- to undertake 3 research on significant public health issues 4 impacting women, research on female reproductive 5 topics? 6 A Correct. 7 Q Now, is it true that since 2019, 8 you've not made any presentations to the medical 9 community, the regulatory community or the 10 scientific community with regard to women's 11 reproductive health and ovarian cancer? 12 A Correct. 13 Q Is it also true that you've not made 14 any presentations -- lectures to scientific bodies 15 or regulatory bodies -- concerning the issue of 16 perineal talc exposure and ovarian cancer? 17 A Correct. 18 Q Now you've co-authored -- as I look at 19 your literature, your past literature over the 20 years -- you have co-authored and contributed to a 21 number of publications that address various 22 modifiable risk factors as they deal with issues 23 of environmental dust, ambient air particles, 24 things like that, correct?</p>	<p style="text-align: right;">Page 48</p> <p>1 MS. PARFITT: Thank you, Katie. I 2 appreciate that. Dr. Diette, you were asked in 3 your Notice of Deposition to produce -- in advance 4 of this deposition -- invoices since 2019 to the 5 present. Do you remember reading that? 6 A I do. 7 Q Okay. Counsel has been kind enough to 8 provide us with invoices, not only for the MCL 9 Litigation, but the MDL Deposition or MDL 10 Litigation. 11 What I would like to present to you 12 and have marked is -- and I'll represent -- is it 13 a composite of your invoices, one for the MCL? 14 A Okay. 15 Q And one for the MDL. What we will 16 have marked first as Exhibit 9, Chris, is the 17 composite for your MDL invoices and I'll have it 18 marked 9. 19 (Diette Exhibit 9 was marked for 20 purposes of identification.) 21 MR. TISI: I guess you don't want the 22 invoices themselves, right? 23 MS. PARFITT: We will get to that. 24 Thank you. And Number 10 is a composite of your</p>
<p style="text-align: right;">Page 47</p> <p>1 A It's included that, that's right. 2 Q Okay. Is it fair to say that since 3 2019, you have not co-authored or authored or 4 contributed to any publications that address 5 various modifiable risk factors that can cause 6 ovarian cancer? 7 A Correct. 8 Q Okay. Do you know if douching is a 9 modifiable risk factor for ovarian cancer? 10 A Well, it's modifiable for sure. I 11 don't know if the science is settled about whether 12 it is a cause or not; but there's certainly some 13 evidence for that. 14 But I don't know whether that's 15 settled science yet for whether it is in fact a 16 risk. 17 Q Is the use of talc in the genital area 18 also a modifiable event? 19 A Of course. 20 Q Okay. All right. Let's talk a little 21 bit about your invoices and we'll have that marked 22 if we can as Exhibit Number, I believe we're up 23 to 9. 24 MS. LEHMAN: That's right.</p>	<p style="text-align: right;">Page 49</p> <p>1 invoices -- presented prior to this deposition -- 2 for the MCL litigation. 3 I'll just go ahead and mark 10 and 9 4 and, Counsel, we have copies for you as well. 5 MR. TISI: I'll get it. 6 MS. PARFITT: But just to keep things 7 moving, Dr. Diette -- 8 MR. TISI: MCL is 9 or MDL is 9? 9 MS. PARFITT: MDL is 9 and MCL is 10. 10 (Diette Exhibit 10 was marked for 11 purposes of identification.) 12 Q And then while Mr. Tisi is doing that, 13 I'm also going to have marked as Exhibit 14 Number 11, a composite of the actual invoices that 15 were produced by counsel, again, in both the MCL 16 and the MDL. 17 MR. TISI: Here, (indicating.) 18 Q Okay. And I'll mark this one we 19 put -- so we now have the same number -- 20 A Okay. Thank you. 21 MR. TISI: Nine. 22 MS. PARFITT: That is number 9. Okay. 23 MS. LEHMAN: Great. Thank you. I 24 appreciate that.</p>

<p style="text-align: right;">Page 50</p> <p>1 THE WITNESS: Thank you.</p> <p>2 MS. LEHMAN: I think you gave him two.</p> <p>3 MR. TISI: I don't know what this is,</p> <p>4 Michelle.</p> <p>5 MS. PARFITT: The MDL, I'll represent,</p> <p>6 is an invoice with a total of \$321,000.</p> <p>7 MR. TISI: Okay. This is just a</p> <p>8 different copy. Here you go.</p> <p>9 MS. LEHMAN: Yeah. I've got a copy,</p> <p>10 I've got a copy of this.</p> <p>11 MR. TISI: Yeah. It's the same thing.</p> <p>12 She just has a different font.</p> <p>13 MS. PARFITT: Number 10 is the MCL.</p> <p>14 MR. TISI: I've got it.</p> <p>15 THE WITNESS: Do you need this?</p> <p>16 MR. TISI: No. That's fine.</p> <p>17 MS. PARFITT: Thank you. And, again,</p> <p>18 we will have marked as Exhibit Number 11 -- and</p> <p>19 that will be a total compilation of invoices that</p> <p>20 were presented by counsel for -- testimony that</p> <p>21 you have given over the course of time, starting</p> <p>22 with 2017, and there's 2019.</p> <p>23 (Diette Exhibit 11 was marked for</p> <p>24 purposes of identification.)</p>	<p style="text-align: right;">Page 52</p> <p>1 know sometimes there's like co-retentions for</p> <p>2 like, you know, stores and things like that, but I</p> <p>3 don't -- I don't recall any of those for ovarian</p> <p>4 cancer.</p> <p>5 Q All right. When you talk about</p> <p>6 stores, you would be talking about CVSs and the</p> <p>7 drug stores?</p> <p>8 A Correct.</p> <p>9 Q Okay. Very good. And there are times</p> <p>10 where you have been co-represented or co-retained</p> <p>11 by not only drug stores, suppliers, but also</p> <p>12 Johnson &amp; Johnson?</p> <p>13 A Generally speaking, that's true. But</p> <p>14 I don't know if that's true for ovarian cancer,</p> <p>15 which I know is what your question was about. It</p> <p>16 may only be Johnson &amp; Johnson for ovarian cancer.</p> <p>17 Q Fair enough. Since 2019, what</p> <p>18 percentage of your income has been related to</p> <p>19 testimony on behalf of Johnson &amp; Johnson for talc</p> <p>20 and asbestos related matters?</p> <p>21 A I don't know how to do that, because</p> <p>22 it varies year to year, right. So like, so for</p> <p>23 ovarian cancer, I guess most of it would have been</p> <p>24 around 2019 or 2020.</p>
<p style="text-align: right;">Page 51</p> <p>1 Q So my question to you; your current</p> <p>2 rate for testifying is \$725?</p> <p>3 A That's right. Yes.</p> <p>4 Q Okay. How long has it been since you</p> <p>5 have worked for J&amp;J as a testifying expert?</p> <p>6 A I think I did the -- well, I don't</p> <p>7 know if I testified in 2017, but I think I first</p> <p>8 did some of the work related to the epidemiologic</p> <p>9 research in 2017.</p> <p>10 The first time I testified, I don't</p> <p>11 know if it was that year or 2018, but it was one</p> <p>12 or the other.</p> <p>13 Q All right. Is Johnson &amp; Johnson still</p> <p>14 your primary client for expert work in the area of</p> <p>15 talc and ovarian cancer issues?</p> <p>16 A For talc and ovarian, yes.</p> <p>17 Q Are there other corporations -- other</p> <p>18 than J&amp;J -- that are also clients for expert work</p> <p>19 that you do on talc and ovarian cancer since 2019?</p> <p>20 A I don't know of any others.</p> <p>21 Q All right. So they're your sole</p> <p>22 client with regard to issues of expert work on</p> <p>23 talc and ovarian cancer?</p> <p>24 A I think so, unless there's, like -- I</p>	<p style="text-align: right;">Page 53</p> <p>1 Then I don't know if there was</p> <p>2 anything -- well, I -- I think there was maybe one</p> <p>3 trial during Covid. There was -- so, I don't</p> <p>4 know. I don't know how to parse it into what</p> <p>5 percentage.</p> <p>6 Q All right.</p> <p>7 A But I can just tell you, like, what</p> <p>8 would help me. But these don't help me, because</p> <p>9 this is not the amount of money that I've earned</p> <p>10 on these dates.</p> <p>11 Q Correct. And that's my question. We</p> <p>12 have tallied the invoices that we received from</p> <p>13 MDL testifying and that is Exhibit 9. It says</p> <p>14 \$321,147 between December 18 and May of 2024.</p> <p>15 Is it fair to say that these numbers</p> <p>16 and the invoices that they reference are not a</p> <p>17 complete compilation of invoices and monies that</p> <p>18 you have earned in the talcum powder/asbestos</p> <p>19 litigation?</p> <p>20 A Well, so it's not even accurate,</p> <p>21 right, let alone complete? These numbers that you</p> <p>22 have here don't represent amounts paid to me.</p> <p>23 Some of these lines may have zero</p> <p>24 dollars paid to me, and some may have some of</p>

<p style="text-align: right;">Page 54</p> <p>1 them. But the only way to figure that out is to</p> <p>2 look at the individual invoices. But this does</p> <p>3 not represent -- as it stands here -- payments to</p> <p>4 me.</p> <p>5 Q Okay. Similarly, Exhibit Number 10,</p> <p>6 which totaled about \$47,000, the invoices that</p> <p>7 you've presented to us would be the correct amount</p> <p>8 of money that you've earned; is that correct for</p> <p>9 the --</p> <p>10 A No. No. No. No. Unless -- well,</p> <p>11 you can tell me if you did -- did what you need to</p> <p>12 do.</p> <p>13 But you need to find the line items on</p> <p>14 the invoices that pertain to me and only me, and</p> <p>15 then you need to subtract some from it, because</p> <p>16 Medical Science Affiliates, who does this billing,</p> <p>17 they add a -- an amount --</p> <p>18 Q A premium?</p> <p>19 A Yeah, to what -- to what I earn. So</p> <p>20 the amount that you see on the invoice is not what</p> <p>21 I receive.</p> <p>22 Q Okay. But is it fair to say that</p> <p>23 Johnson &amp; Johnson was charged by Dr. Diette and</p> <p>24 MSA the amounts that are reflected in the</p>	<p style="text-align: right;">Page 56</p> <p>1 like all sorts of testimony; not just related</p> <p>2 to -- to talc and ovarian cancer.</p> <p>3 And if she said that I wouldn't have</p> <p>4 endorsed that on purpose. I mean, if you think</p> <p>5 that there's a statement there, I would have no</p> <p>6 way to be able to support that statement.</p> <p>7 Q Would a fairer statement be that</p> <p>8 during expert work -- during the course of doing</p> <p>9 your expert work since 2017 -- you have earned in</p> <p>10 excess of \$2 million?</p> <p>11 A I don't know if that's true either.</p> <p>12 And I -- what I recall from the trial was she was</p> <p>13 asking about I think 10 years or something, and I</p> <p>14 don't remember a dollar amount that came up. But</p> <p>15 certainly over 10 years, that could be right.</p> <p>16 Q Okay. It could be in excess of that</p> <p>17 as well, correct?</p> <p>18 A It could be. It may not be quite as</p> <p>19 much, but I don't have a tally of it.</p> <p>20 Q Okay. Did you provide counsel with</p> <p>21 every invoice that you have billed for up until</p> <p>22 May of 2024?</p> <p>23 A Related to the?</p> <p>24 Q Talcum powder and ovarian cancer</p>
<p style="text-align: right;">Page 55</p> <p>1 invoices; is that correct? It's A fair statement?</p> <p>2 A Sure. MSA plus me is reflected here.</p> <p>3 Q You hire MSA to assist you with regard</p> <p>4 to your work in talc and ovarian cancer and</p> <p>5 asbestos and ovarian cancer, right?</p> <p>6 A I don't hire them. I mean, we don't</p> <p>7 have that sort of relationship, but I do take</p> <p>8 advantage of their administrative services.</p> <p>9 Q All right. And they bill J&amp;J for it?</p> <p>10 A They do.</p> <p>11 Q Okay. Dr. Diette, is it fair to say</p> <p>12 that over the course of your testifying on behalf</p> <p>13 of J&amp;J that you've earned in excess of a couple</p> <p>14 million dollars?</p> <p>15 A I would doubt that, but I don't -- I</p> <p>16 don't have any way to know.</p> <p>17 Q Do you remember being asked that</p> <p>18 question in the Matthey trial where you testified?</p> <p>19 A I don't remember that, but I think,</p> <p>20 you know -- but we're talking about with Ms.</p> <p>21 O'Dell asking questions?</p> <p>22 Q Right.</p> <p>23 A Yeah, and I think -- I remember she</p> <p>24 was asking questions that were about testimony,</p>	<p style="text-align: right;">Page 57</p> <p>1 cases.</p> <p>2 MS. LEHMAN: Object to form.</p> <p>3 A Yeah, as far as I know. I mean, I</p> <p>4 don't know of any that are missing, other than</p> <p>5 like unbilled time.</p> <p>6 Q Okay. I assume there is some unbilled</p> <p>7 time?</p> <p>8 A Of course.</p> <p>9 Q All right. Approximately how much</p> <p>10 time have you billed, have you billed for -- that</p> <p>11 you've not yet received compensation for --</p> <p>12 leading up to today, your deposition?</p> <p>13 A Is that your question? How much have</p> <p>14 I billed for, but not like gotten a check?</p> <p>15 Q Yes.</p> <p>16 A Oh, I have no idea. Like, I don't --</p> <p>17 I don't keep track of it. I mean, I send in the</p> <p>18 invoice and then one day I get a check. But I</p> <p>19 don't keep track. I mean, I may have all of it.</p> <p>20 I don't know.</p> <p>21 Q Okay. Well, you last billed on</p> <p>22 May 17th, 2024. Is it fair to say you've done</p> <p>23 work since May 17th, 2024 for Johnson &amp; Johnson on</p> <p>24 the talcum powder and ovarian litigation?</p>

<p style="text-align: right;">Page 58</p> <p>1 A Yes.</p> <p>2 Q All right. How many hours have you</p> <p>3 worked on the talcum powder and ovarian cancer</p> <p>4 litigation since May 17th, 2024?</p> <p>5 A I would estimate 30.</p> <p>6 Q Thirty hours?</p> <p>7 A Three zero. Yes, three zero.</p> <p>8 Q Okay. So that should be the only</p> <p>9 other invoice that I should be certain to inquire</p> <p>10 of counsel, following this deposition?</p> <p>11 A You should.</p> <p>12 Q Okay. Am I also going to get a</p> <p>13 statement that includes not only your 30 hours,</p> <p>14 but the tax by MSA that works for you, correct?</p> <p>15 A Well, it's not a tax and I don't think</p> <p>16 you'll get something specific to me, right? And I</p> <p>17 want to be very clear about this. Let's just</p> <p>18 look -- for example, you brought up May 2024, and</p> <p>19 it says 34,938,61.</p> <p>20 I can't tell you off the top of my</p> <p>21 head how much of that is mine. It's not a tax,</p> <p>22 it's just a -- I don't -- I mean tax, I think, is</p> <p>23 for the government, but there's an add-on. I can</p> <p>24 tell you exactly how much is mine if we look at</p>	<p style="text-align: right;">Page 60</p> <p>1 a given year, there are huge gaps, I mean, where I</p> <p>2 do absolutely nothing because there's -- there's</p> <p>3 no new literature to review, or maybe one article</p> <p>4 or something like that.</p> <p>5 Q Thank you. All right. Let's just</p> <p>6 mark for purposes of identification your Expert</p> <p>7 Testimony List of Gregory Diette. And</p> <p>8 Dr. Diette --</p> <p>9 MR. TISI: That's Number 12, correct?</p> <p>10 MS. PARFITT: It's number 12, yes.</p> <p>11 (Diette Exhibit 12 was marked for</p> <p>12 purposes of identification.)</p> <p>13 Q While they're getting that document,</p> <p>14 Dr. Diette, your expert testimony --</p> <p>15 MR. TISI: Whoever changed their</p> <p>16 setting on their phone, we're getting feedback.</p> <p>17 THE WITNESS: It looks like</p> <p>18 Mr. Golomb.</p> <p>19 MR. TISI: Mr. Golomb, whatever you</p> <p>20 just did, we're getting feedback now.</p> <p>21 MS. PARFITT: Dr. Diette, do you have</p> <p>22 Exhibit 12 in front of you?</p> <p>23 MR. TISI: We've got to fix that.</p> <p>24 Richard, can you go on mute or whatever it is you</p>
<p style="text-align: right;">Page 59</p> <p>1 the specific invoice.</p> <p>2 Q Okay.</p> <p>3 A But that's the only way to do this.</p> <p>4 Q All right.</p> <p>5 A Otherwise, we're just guessing.</p> <p>6 Q Is it fair to say you are unable</p> <p>7 today, sitting here, to tell the ladies and</p> <p>8 gentlemen of the jury what percentage of your time</p> <p>9 is spent doing expert work for Johnson &amp; Johnson</p> <p>10 on talcum powder and ovarian cancer cases?</p> <p>11 MS. LEHMAN: Object to form.</p> <p>12 A Yeah, I don't -- I don't break it down</p> <p>13 that way. I mean, I --</p> <p>14 Q No ballpark number?</p> <p>15 A Well, I'll tell you how I can back</p> <p>16 into it a little bit. So, I'd say that in a</p> <p>17 typical year lately, maybe about 20 percent of my</p> <p>18 professional time is related to expert work. So</p> <p>19 it's some subset of that.</p> <p>20 I think of that 20 percent, maybe</p> <p>21 about a third is related to talcum powder in</p> <p>22 general; but it's not all related to ovarian</p> <p>23 cancer.</p> <p>24 And I would say that, you know, within</p>	<p style="text-align: right;">Page 61</p> <p>1 do?</p> <p>2 MS. PARFITT: You have to go on mute,</p> <p>3 sir.</p> <p>4 THE WITNESS: The answer is, yes.</p> <p>5 MS. PARFITT: Thank you very much.</p> <p>6 All right Dr. Diette, the first date of</p> <p>7 testimony --</p> <p>8 (Internet issues were addressed.)</p> <p>9 Q Dr. Diette, the first date of</p> <p>10 testimony on Exhibit 12 is a date of June 19th,</p> <p>11 2020. Do you see that?</p> <p>12 A I do.</p> <p>13 Q All right. We asked for all</p> <p>14 information with regard to expert testimony --</p> <p>15 whether it be deposition or trial testimony --</p> <p>16 from 2019 to 2020.</p> <p>17 So would this be correct that this is</p> <p>18 the first date since the time of your April -- it</p> <p>19 would be your February 25th, 2019 report --</p> <p>20 A I'm not sure.</p> <p>21 Q -- that you've given testimony?</p> <p>22 A This represents the last four years of</p> <p>23 testimony, which is what I try to maintain --</p> <p>24 Q Fair enough.</p>



<p style="text-align: right;">Page 62</p> <p>1 A -- so, yeah. So, it may miss 2 something from 2019. 3 Q All right. So there could be 4 testimony trial or otherwise between 2019 and this 5 date of June 19th, 2020, fair? 6 A There might or might not be, that's 7 right. 8 Q Okay. I've gone through your list and 9 it looks like in 2020 you testified for 10 Johnson &amp; Johnson three times. Excuse me, that 11 would be five times, excuse me. 12 A Yeah. I mean, they're different 13 dates. But I mean if you're counting cases like 14 the Reyes case was one with Mr. Satterly, and I 15 think he spent three different days getting 16 through the deposition. 17 So like, you'll see two of the dates 18 on the first page are related to that, but then 19 there's another date which is the same deposition. 20 Q All right. 21 A Literally the same. 22 Q All right. 23 A So there is some double counting here, 24 just because there's, you know, there's</p>	<p style="text-align: right;">Page 64</p> <p>1 I call them the more minor or smaller 2 participants -- 3 Q All right. 4 A -- but the primary -- the primary one 5 would be on here. 6 Q Very good. Thank you very much. 7 Since 2019, other than Johnson &amp; Johnson, has any 8 regulatory body ever reached out to retain your 9 services on issues of talc and ovarian cancer? 10 A No. 11 Q Okay. So the EPA hasn't reached out 12 for your opinions on talc and ovarian cancer? 13 A Correct. 14 Q And the FDA has not reached out to 15 retain your services on the issue of talc and 16 ovarian cancer? 17 A Correct. 18 Q And is it fair to say CIR, which is 19 Cosmetic Industry Review Board, have they reached 20 out to you representing personal care companies? 21 Have they reached out to you and asked 22 for your professional opinion on talcum powder and 23 ovarian cancer? 24 MS. LEHMAN: Just for -- just for</p>
<p style="text-align: right;">Page 63</p> <p>1 redundancy. 2 Q All right. I'm not going to belabor 3 this. We will have it as part of the record. But 4 my question is simply this. Does this composite 5 Exhibit Number 12 -- which represents the last 6 four years of your testimony -- does it reflect 7 any time that you gave testimony, either 8 deposition or trial, on behalf of 9 Johnson &amp; Johnson in a talcum powder/asbestos 10 ovarian and/or mesothelioma case? 11 A I think it does. I think that's 12 right. 13 Q Does this document also reflect any 14 time you gave trial testimony or deposition 15 testimony -- in a case involving talc or asbestos 16 in ovarian and/or mesothelioma cases -- for 17 companies other than Johnson &amp; Johnson? 18 A I would say generally, yes. But I'm 19 not sure whether all co-retentions are necessarily 20 included in the little box there. 21 Like I see, for example, under Reyes, 22 it certainly includes some like Lucky stores and 23 Long drug stores. But I don't -- I don't 24 necessarily try to keep track of the -- like the,</p>	<p style="text-align: right;">Page 65</p> <p>1 clarification, Counsel, we're talking about since 2 2019? 3 MS. PARFITT: All of these since 2019, 4 yes, Counsel? Thank you. 5 A Correct. 6 Q Okay. And since 2019, you've not been 7 asked to appear before Congress to testify with 8 regard to the safety of talcum powder application 9 and ovarian cancer; is that fair? 10 A Correct. 11 Q Now, IARC, International Association 12 for Research on Cancer, have they reached out to 13 you and asked to retain your opinions with regard 14 to talcum powder and ovarian cancer? 15 A No. 16 MS. LEHMAN: Just for clarification, I 17 object to the form unless you mean since 2019. 18 MS. PARFITT: All of these -- let's, 19 for purposes of record and to make it flow better, 20 all of my questions, Dr. Diette, certainly attempt 21 to be inquiring since 2019. And I'll let you know 22 if that changes. 23 A Yeah. What might help is I'll say 24 that going forward I'm going to try to answer</p>

<p style="text-align: right;">Page 66</p> <p>1 assuming that you meant since 2019.</p> <p>2 Q That's fair.</p> <p>3 A Yeah.</p> <p>4 Q That's fair. All right. Now, since</p> <p>5 2019, have your opinions with regard to talcum</p> <p>6 powder and ovarian cancer either been solicited or</p> <p>7 retained by any public health scientific</p> <p>8 organizations?</p> <p>9 A No.</p> <p>10 Q So the National Institutes of Health</p> <p>11 has not reached out to you since 2019 and asked</p> <p>12 for you to assist them with regard to public</p> <p>13 health issues, as they pertain to talcum powder</p> <p>14 use and ovarian cancer?</p> <p>15 A Correct.</p> <p>16 Q It's fair that NCI has not reached out</p> <p>17 to you for your services, with regard to your</p> <p>18 opinions on talcum powder use in the genital area</p> <p>19 in ovarian cancer?</p> <p>20 A Correct.</p> <p>21 Q Similarly, the American Cancer</p> <p>22 Society, the American College of Gynecology, the</p> <p>23 Society of Gynecologic Oncologists, those</p> <p>24 professional groups have not reached out to you</p>	<p style="text-align: right;">Page 68</p> <p>1 A Yeah. No. I get it. But I don't</p> <p>2 know whether they said "no safe" or "no known safe</p> <p>3 level," you know, which is different to me.</p> <p>4 Q Okay.</p> <p>5 A So I don't know which they said.</p> <p>6 Q If they said "no safe level of</p> <p>7 asbestos," do you agree or disagree with NIOSH?</p> <p>8 A I would disagree with that statement.</p> <p>9 Q If they said "no known safe exposure</p> <p>10 level," would you agree or not agree with NIOSH?</p> <p>11 A I might. I mean, if we're talking</p> <p>12 about like that it hasn't been demonstrated that</p> <p>13 there's a level that they could articulate, I</p> <p>14 think that would be right.</p> <p>15 Q Okay. Let's talk a little bit more</p> <p>16 about your work for Johnson &amp; Johnson. When I say</p> <p>17 J&amp;J, I mean Johnson &amp; Johnson, the companies, the</p> <p>18 family --</p> <p>19 A Of course.</p> <p>20 Q -- the family of Johnson &amp; Johnson.</p> <p>21 It's fair to say -- based upon your testimony here</p> <p>22 that is, again, since 2019 -- your professional</p> <p>23 services for Johnson &amp; Johnson in this litigation</p> <p>24 has been limited to providing expert reports and</p>
<p style="text-align: right;">Page 67</p> <p>1 with regard to obtaining your opinions on talcum</p> <p>2 powder and ovarian cancer?</p> <p>3 A Correct.</p> <p>4 Q Has NIOSH reached out to you with</p> <p>5 regard to consulting with you for your opinions on</p> <p>6 talcum powder and ovarian cancer?</p> <p>7 A No.</p> <p>8 Q Do you agree with NIOSH's statement,</p> <p>9 "there is no safe exposure for asbestos?"</p> <p>10 A I don't know the statement, but --</p> <p>11 Q Their opinion in their reports?</p> <p>12 A Yeah. I mean, I imagine there is</p> <p>13 something that says something like that; but I</p> <p>14 don't think it's true. I think -- I think that</p> <p>15 there is --</p> <p>16 Q You've answered the question, Doctor,</p> <p>17 that's fine. If your counsel wants to explore --</p> <p>18 MS. LEHMAN: Please let Dr. Diette</p> <p>19 finish. Dr. Diette, please finish your answer.</p> <p>20 MS. PARFITT: My question is very</p> <p>21 simple -- and your counsel will have plenty of</p> <p>22 time to do a redirect -- do you agree with NIOSH's</p> <p>23 opinion that "there is no safe level of asbestos."</p> <p>24 Period, end of question.</p>	<p style="text-align: right;">Page 69</p> <p>1 testimony in deposition and testimony in a Daubert</p> <p>2 proceeding; is that fair?</p> <p>3 A Correct.</p> <p>4 MS. LEHMAN: Object to form.</p> <p>5 A Correct.</p> <p>6 Q Again, all of these are with regard to</p> <p>7 talcum powder and ovarian cancer?</p> <p>8 A Correct.</p> <p>9 Q All right. Has J&amp;J asked that you</p> <p>10 consult with them with regard to any other medical</p> <p>11 or scientific issues that pertain to talcum powder</p> <p>12 and ovarian cancer, outside of the litigation</p> <p>13 setting?</p> <p>14 A No.</p> <p>15 Q All right. So it's fair to say that</p> <p>16 any opinions that you've shared -- with regard to</p> <p>17 talcum powder use in the genital area and ovarian</p> <p>18 cancer -- have been in legal cases where J&amp;J pays</p> <p>19 you as an expert, fair?</p> <p>20 MS. LEHMAN: Object to form.</p> <p>21 A Correct. I'm sorry, I know we had</p> <p>22 kind of a rambling start with the tech stuff. If</p> <p>23 I could just -- if I could just grab a glass of</p> <p>24 water. I'm just getting a little dry.</p>

<p style="text-align: right;">Page 70</p> <p>1 MS. PARFITT: Of course. Of course.  2 I should have asked you that. No, that's --  3 MR. TISI: I'll get it for you.  4 MS. PARFITT: Let's take a break, if  5 we can.  6 THE REPORTER: Sure. That would be  7 great.  8 (There was a break in the proceedings at 10:40  9 a.m. and testimony resumed at 10:45 a.m.)  10 BY MS. PARFITT:  11 Q And, Dr. Diette, I should have said at  12 the beginning, if you need to take a break at any  13 point in time, just put your hand up, and we will  14 do it, because I tend to do a marathon here, so  15 please let me know.  16 A Thank you.  17 Q I'm help happy to accommodate. Sure.  18 Dr. Diette, are you aware of the fact that  19 Johnson &amp; Johnson is now in its almost third  20 attempt to try to achieve the protections of the  21 bankruptcy system?  22 MS. LEHMAN: Object to form.  23 A I don't know the count, but I know  24 that there -- I mean I've seen in the media that</p>	<p style="text-align: right;">Page 72</p> <p>1 That is not quite right because, to the extent  2 that his answer would require the disclosure of  3 any privileged or confidential information, I am  4 going to instruct him not to answer.  5 MS. PARFITT: That's fine. That's  6 fine.  7 Q Do you need me to ask the question  8 again?  9 A No. I heard it. I just don't  10 understand what a compensable histology is.  11 Q Okay. Fair enough. Has  12 Johnson &amp; Johnson -- during the course of their  13 attempt to seek bankruptcy protection -- reached  14 out to you for your scientific and medical advice  15 with regard to the types of cancers that might be  16 associated with the use of Talcum Powder Products?  17 MS. LEHMAN: The same objection.  18 A No.  19 Q So, is it fair to say that, with  20 regard to the bankruptcy, in general, Johnson &amp;  21 Johnson has not reached out to you for your  22 medical or scientific expertise?  23 MS. LEHMAN: The same objection.  24 A I am not sure if I am right. I think</p>
<p style="text-align: right;">Page 71</p> <p>1 there's something going on with like a bank.  2 Well, I actually I shouldn't say I  3 know that. I don't know if I saw it about  4 bankruptcy.  5 I saw something about a settlement,  6 but not about bankruptcy.  7 Q Okay. But you are aware of the fact  8 that J&amp;J has attempted -- on at least two  9 occasions -- to file for bankruptcy and seek the  10 protections of the bankruptcy system?  11 MS. LEHMAN: Object to form. Asked  12 and answered.  13 A I'm aware of that.  14 Q Okay. Has J&amp;J reached out to you for  15 your opinions on assisting them with establishing  16 compensable histologies for ovarian cancer, for  17 purposes of a potential solicitation or  18 bankruptcy?  19 MS. LEHMAN: I would just object to  20 that, to the extent that he had been -- he was  21 contacted but not disclosed.  22 MS. PARFITT: "Objection to form" is  23 how we're going to work it.  24 MS. LEHMAN: Well, hold on. Hold on.</p>	<p style="text-align: right;">Page 73</p> <p>1 they may have requested a copy of my MDL report,  2 at some point during the first of those.  3 But I don't know if I remember that  4 right or not; but, other than that, like nothing,  5 like no -- no different work, you know, related to  6 it.  7 Q Okay. Have they paid you for any  8 expertise and work related to the bankruptcy  9 proceedings?  10 MS. LEHMAN: The same objection.  11 A No.  12 Q Okay. Are you aware that J&amp;J has a  13 website, Facts About Talc?  14 A I saw one a couple of years ago. I --  15 I assume it may still be there, but I don't know  16 that.  17 Q All right. When is the last time you  18 may have gone to that website?  19 A Maybe two or three years ago or so.  20 Q Okay. Nothing recent?  21 A Nothing recent.  22 Q I was asking you about published  23 articles that you have conducted or written.  24 Have you written or published any</p>



<p style="text-align: right;">Page 74</p> <p>1 articles on the methodological issue of 2 contradictory data correction? 3 A No. 4 Q Have you written any articles -- 5 published in peer-reviewed literature -- on 6 missing data imputation or multiple imputation? 7 MS. LEHMAN: And I would just request 8 that you inject the "since 2019" into the 9 questions so the record is clear. 10 Q Again, since 2019? 11 A None where that's the topic. 12 There likely are articles that have 13 used the techniques but not -- but there's not an 14 article that I've, you know, authored or 15 co-authored where the topic is about the 16 technique. 17 Q Okay. And, similarly, since 2019, 18 have you authored any peer-reviewed literature on 19 the issue of sensitivity analysis related to 20 recall bias? 21 A No. 22 Q Okay. During the break, I was looking 23 over your list of testimonies. 24 Is it fair to say that, since 2019,</p>	<p style="text-align: right;">Page 76</p> <p>1 money J&amp;J has paid you, since 2019, for expert 2 work -- 3 A No. 4 Q -- and retention services? 5 A I don't. I don't sort it out that 6 way. I mean, I -- you know, I work for different 7 clients in the same month at times, and so I 8 don't -- I don't have a way to sort of mentally 9 keep track of, you know, who is who. 10 Q Okay. When you file those income tax 11 statements every year, that doesn't kind of 12 refresh your recollection as to how much money is 13 coming in from J&amp;J as to your income? 14 MS. LEHMAN: Object to the form. 15 A No, because it doesn't -- I don't get 16 a check from Johnson &amp; Johnson. 17 Q I am sorry? 18 A I don't get a check directly from 19 Johnson &amp; Johnson, so I wouldn't be able to 20 recreate it that way. 21 Q Okay. Well, who do you get your 22 checks from? 23 A Well, related -- related to the 24 Johnson &amp; Johnson work, it gets issued by Medical</p>
<p style="text-align: right;">Page 75</p> <p>1 you may have testified for J&amp;J or companies over 2 36 times? 3 A J&amp;J or other? 4 Q Other companies who manufacture and 5 produce Talcum Powder Products; if you know? If 6 not, we will go with this. 7 A I don't know. I mean, the only way I 8 could do it would be to go -- 9 Q Would be to go through each one? 10 A Would be to go through it and then try 11 to look for the redundancies where -- 12 Q Okay. 13 A You know, like to me, just if somebody 14 dragged something out over three days, it doesn't 15 mean that I testified three times. It was just 16 one event. 17 Q We won't take the time on that. 18 Perhaps I wasn't -- this might clear up some of 19 the other questions. 20 Since 2019, how much money have you 21 made from your work as a retained expert from 22 Johnson &amp; Johnson? 23 A I haven't counted it up that way. 24 Q You have no backup data for how much</p>	<p style="text-align: right;">Page 77</p> <p>1 Science Affiliates, who collects the money from -- 2 I don't know whether they collect it 3 from the law firm or from Johnson &amp; Johnson, but 4 they collect it, and then they issue a check to 5 me. 6 Q Okay. All right. Let's talk a little 7 bit about Health Canada. 8 When we last spoke, we talked a bit 9 about the draft Health Canada assessment, and 10 we're not going to talk about that today. 11 What we will talk about is, since 12 2019, Health Canada has issued a final screening 13 assessment dated April 20 -- 21st. Are you aware 14 of that? 15 A I am. 16 Q Okay. Have you read it? 17 A I have. 18 Q Okay. Did you read it when it came 19 out? 20 A I don't know if I read it in April of 21 2021, but I read it, you know, some time, you 22 know, not just -- not just very recently. 23 Q Okay. And so, when we talked back in 24 2019, you didn't have access to that final Health</p>

<p style="text-align: right;">Page 78</p> <p>1 Canada report, correct?</p> <p>2 A We had a draft only, if I remember</p> <p>3 right.</p> <p>4 Q Okay. Now, let's have marked Exhibit</p> <p>5 Number 13 and Exhibit 14.</p> <p>6 Exhibit 13 is the complete Health</p> <p>7 Canada report, and Exhibit Number 14 is a</p> <p>8 compendium, which I will identify as Health Canada</p> <p>9 screening assessment, the section on evaluation of</p> <p>10 causation, which starts on page 29 and goes</p> <p>11 through page 36, and then there's a page attached</p> <p>12 to that, page 49.</p> <p>13 MR. TISI: Can I ask you a question?</p> <p>14 (A discussion was held off the</p> <p>15 record.)</p> <p>16 Q Here we go. Dr. Diette, I am going to</p> <p>17 show you what I am going to have marked as 14, and</p> <p>18 it's the compendium of the Health Canada report.</p> <p>19 I'll put your sticker there, so I make</p> <p>20 sure I gave you that one.</p> <p>21 MR. TISI: That's 14?</p> <p>22 MS. PARFITT: Yes, and Exhibit 13 is</p> <p>23 the full report.</p> <p>24 (Diette Exhibits 13 &amp; 14 were marked</p>	<p style="text-align: right;">Page 80</p> <p>1 Q Okay. Well, did you learn -- through</p> <p>2 your read of Dr. Merlo's deposition -- that his</p> <p>3 report was also submitted to Health Canada by</p> <p>4 Johnson &amp; Johnson?</p> <p>5 A I think he might have -- Well, I don't</p> <p>6 remember if he agreed with that or not, but I</p> <p>7 just --</p> <p>8 I know Mr. Tisi asked him questions</p> <p>9 about that, and implied that he had, and I don't</p> <p>10 have any information otherwise, that they did or</p> <p>11 didn't.</p> <p>12 Q Okay. Now, Dr. Merlo is a professor</p> <p>13 in your department as well, correct?</p> <p>14 A He is.</p> <p>15 Q Okay. And you are colleagues and</p> <p>16 friends?</p> <p>17 A Mr. Tisi is correcting. But it's</p> <p>18 incorrect. He is saying assistant, but he's an</p> <p>19 associate professor.</p> <p>20 Q Okay. I am not sure that I asked you</p> <p>21 that question, but --</p> <p>22 A No. Mr. Tisi was helping you. Sorry.</p> <p>23 Q We're going to stick to my questions,</p> <p>24 okay. I am sorry about that.</p>
<p style="text-align: right;">Page 79</p> <p>1 for purposes of identification.)</p> <p>2 Q There you go.</p> <p>3 A Thank you.</p> <p>4 MR. TISI: To be clear, 14 is the full</p> <p>5 report, and 13 is the --</p> <p>6 THE REPORTER: Fourteen is what?</p> <p>7 MR. TISI: You originally marked it</p> <p>8 and then changed it?</p> <p>9 MS. PARFITT: I have 13 as the</p> <p>10 compendium, and I have 14 as the whole report.</p> <p>11 MR. TISI: Right, correct.</p> <p>12 Q Okay. Dr. Diette, were you aware that</p> <p>13 Health Canada was provided by your employer,</p> <p>14 Johnson &amp; Johnson, with a copy of your expert</p> <p>15 report some time between the draft report and the</p> <p>16 final report? Did you know that?</p> <p>17 A So I don't consider Johnson &amp; Johnson</p> <p>18 to be an employer.</p> <p>19 I've learned, I've learned more</p> <p>20 recently -- I think through reading through</p> <p>21 Dr. Merlot's transcript -- that it went through</p> <p>22 Johnson &amp; Johnson.</p> <p>23 But I don't -- I don't think I knew</p> <p>24 how they got, got the report otherwise.</p>	<p style="text-align: right;">Page 81</p> <p>1 A I'll ignore him, if he says something.</p> <p>2 MR. TISI: Ignore me.</p> <p>3 A Okay. All right.</p> <p>4 Q Thank you. Thank you.</p> <p>5 No, I don't want you to ignore him at</p> <p>6 all, but I do want to make sure that the record is</p> <p>7 correct.</p> <p>8 That's the only thing. I want to make</p> <p>9 sure we've got one question and answer. I don't</p> <p>10 want to confuse you either.</p> <p>11 A Of course.</p> <p>12 Q So, my question is that, Dr. Merlo is</p> <p>13 a professor in your department?</p> <p>14 A That is right.</p> <p>15 Q And he's a next-door neighbor in the</p> <p>16 department?</p> <p>17 A So, on the one campus, our doors were</p> <p>18 literally adjacent.</p> <p>19 Q That's what I understand.</p> <p>20 A Yes.</p> <p>21 Q All right. Neither one of you are</p> <p>22 gynecologists or oncologists?</p> <p>23 A Correct.</p> <p>24 Q Okay. And, at the request of, or I</p>

<p style="text-align: right;">Page 82</p> <p>1 guess invitation of J&amp;J, it is your understanding  2 that now -- sitting here today in 2024 -- that J&amp;J  3 made available, not only your expert report but  4 also Dr. Diette -- or, excuse me, Dr. Merlo's  5 expert report?  6 MS. LEHMAN: Object to form.  7 A If it's true. I mean, I don't -- I  8 don't know if it's true, but I can assume it's  9 true. I don't know how they got it.  10 Q Okay. Now, did you see -- having read  11 the report -- where your opinions and your  12 methodological criticisms of some of the experts  13 that were testifying on behalf of the consumers  14 were in fact considered in the Health Canada  15 report?  16 A I did.  17 Q Okay. Similarly, did you see -- from  18 your read of the Health Canada final report --  19 that your opinions and methodology were also  20 considered by Health Canada?  21 A It looked like certain of them were.  22 I don't know if all of them were, but it looked --  23 you know, they highlighted a couple, at least.  24 Q All right. Let's turn to the</p>	<p style="text-align: right;">Page 84</p> <p>1 arguments with regard to strength, consistency,  2 biological gradient and also biological plausible?  3 A Well, it's not the way that I read  4 this paragraph.  5 Maybe it comes up in the next section,  6 but I think this paragraph is about identifying  7 which are the more important -- versus, you know,  8 maybe less important -- of the Bradford Hill  9 considerations.  10 Q That's fair.  11 A Yes.  12 Q That's fair. And one of those more  13 important, or equally as important factors that  14 were considered by Bradford Hill, and by you, in  15 your assessment, was strength. Is that correct?  16 A That is correct.  17 Q All right. So, if you look at the  18 strength section of the evaluation of causation by  19 Health Canada, is it fair to say that Health  20 Canada considered your arguments on strength of  21 the association?  22 Do you see that? Do you see your name  23 there?  24 A I do.</p>
<p style="text-align: right;">Page 83</p> <p>1 compendium, if you will.  2 And, Dr. Diette, I'll represent, your  3 compendium has some pink highlighting on it, and  4 again that's Exhibit Number 13.  5 And it has some pink where it's  6 highlighted your name. That's for ease of our  7 discussion here today.  8 A Okay.  9 Q Do you have that?  10 A I do.  11 Q And I will let the record reflect that  12 I have put those pink highlights in there to help  13 us walk through this report. Okay? Fair enough?  14 A It is.  15 Q Okay. Let's walk through the section  16 of the Health Canada report that is entitled,  17 "Evaluation of Causation."  18 Do you see that on the top of page 29?  19 A I do.  20 Q All right. Do you see, in the report,  21 the first paragraph, that Health Canada considered  22 your arguments with regard to strength of  23 association. Do you see that?  24 In fact, they considered your</p>	<p style="text-align: right;">Page 85</p> <p>1 Q Okay. And do you see, at the last  2 paragraph, it starts with strength and  3 consistency, right above the consistency group?  4 Do you see that?  5 A That is right.  6 Q Okay. Do you see that Health Canada  7 determined that the measured ORs, 1.22 to 1.31 are  8 modest, but they are also similar and unlikely to  9 be random.  10 Considering that ovarian cancer is  11 rare and, therefore -- that a large dataset is  12 required to detect the association -- the findings  13 in the available literature are significant.  14 Did I read that correctly?  15 A You did.  16 Q Okay. Is it correct that Health  17 Canada considered your arguments with regard to  18 strength and rejected them, finding that the  19 strength of the association was significant?  20 MS. LEHMAN: Object to the form.  21 A So "significant" and "strong" are two  22 different things.  23 And so, I don't -- I don't think that  24 they have actually gotten to the point where</p>

<p style="text-align: right;">Page 86</p> <p>1 they've articulated whether or not strength has 2 been met. 3 And my -- my comment, if they -- I 4 don't know what part of it they read. I wasn't 5 talking about significance. 6 Significance is already baked into 7 Bradford Hill because Bradford Hill says, you 8 know, once an association has been found, that's 9 positive, beyond, you know, where the role of 10 chance is no longer there -- which is what 11 significance is -- then you consider strength. 12 So, they've gone back and forth in 13 this particular analysis, and they've never landed 14 on whether or not they endorsed that strength has 15 been satisfied. 16 Q Okay. Dr. Diette, you failed to 17 answer my question. I move to strike. 18 Dr. Diette, I am trying to move through this 19 deposition with some efficiency. 20 If I could ask that you answer my 21 questions, and you'll have a chance to elaborate, 22 and, counsel, I am sure, is quite skilled, and 23 will ask some follow-up. 24 So, my questions are going to be very,</p>	<p style="text-align: right;">Page 88</p> <p>1 Q Okay. Similarly, Health Canada 2 considered your criticisms regarding the lack of 3 consistency in the various study designs; is that 4 correct? 5 MS. LEHMAN: Object to the form. 6 A Well, I am sorry. I was reading it 7 while you were talking, so I didn't listen. 8 Q Health Canada has cited to your 9 report, the Diette report of 2019; is that 10 correct? 11 A That is correct. 12 Q All right. And, in your report, you 13 opine with regard to whether or not the evidence 14 is consistent between study designs, correct? 15 A Correct. 16 Q Okay. And Health Canada had that 17 report with regard to the consistency among study 18 designs, correct, which you addressed in your 19 report? 20 A Correct. 21 Q Okay. And is it fair to say that 22 Health Canada also considered the O'Brien 2020 23 study? 24 Do you see that at the bottom of 20 --</p>
<p style="text-align: right;">Page 87</p> <p>1 very focused, and the question I asked is this. 2 Health Canada considered your 3 viewpoints and opinions with regard to the 4 strength of the association, and Health Canada 5 found that -- based upon their review of the 6 totality of the literature, their findings were 7 that -- based upon the evidence and the ORs, that 8 they felt the evidence was significant. 9 At least that's what they stated in 10 their report, correct? 11 MS. LEHMAN: And I would object to the 12 lecturing, counsel. I would also object to the 13 form as asked and answered. 14 A So, they did use the word 15 "significant." 16 Q Okay. Similarly, let's go down to the 17 next section, which is consistency. Do you see 18 that? 19 A I do. 20 Q Okay. And, again, do you see your 21 name mentioned? And, when I say "your name," 22 that's your report with all of your opinions and 23 methodology. Do you see that on page 31? 24 A I do.</p>	<p style="text-align: right;">Page 89</p> <p>1 of page 30? 2 A Page 30. Yes. 3 Q Okay. You stated in your report that 4 Health Canada did not have access to O'Brien 2020. 5 Were you mistaken? 6 A In my 2019 report? 7 Q In your 2024 report. 8 A So, I may not have updated it because 9 that may be a leftover from the 2019. But I think 10 that I wrote that when, when we had the draft in 11 front of us, which predated the 2020. 12 Q Okay. But is it fair to say that you 13 would be incorrect, Health Canada did indeed have 14 O'Brien 2020, before they issued their final 15 assessment on causality? 16 A That's right. 17 Q Okay. Do you see, on page 33, on the 18 top of the page, that, after Health Canada had the 19 opportunity to consider not only your report but 20 also the reports of the plaintiff's experts, that 21 they determined that -- based upon the totality of 22 the literature -- that there was indeed a high 23 degree of consistency in epidemiological studies 24 across several decades, conducted in different</p>

<p style="text-align: right;">Page 90</p> <p>1 parts of the world. Did you see that?</p> <p>2 A Did you direct me to 33?</p> <p>3 Q Thirty-three, at the top of the page.</p> <p>4 A I see. Yes.</p> <p>5 Q And they referenced a high degree of</p> <p>6 consistency, based upon the totality of the</p> <p>7 evidence they had available to review at the time</p> <p>8 of issuing their final report, correct?</p> <p>9 A That's correct.</p> <p>10 Q Okay. Now, to move things along,</p> <p>11 Dr. Diette, Health Canada also had an opportunity</p> <p>12 to consider your expert report in their discussion</p> <p>13 of biological gradient; is that correct? Do you</p> <p>14 see your name there on page 33?</p> <p>15 A I do.</p> <p>16 Q Okay. Similarly, when you go down to</p> <p>17 biological plausibility, do you see your -- a</p> <p>18 reference to your expert report?</p> <p>19 A Yes.</p> <p>20 Q Okay. And so Health Canada also had</p> <p>21 an opportunity to consider your viewpoints and</p> <p>22 opinions with regard to whether or not there was</p> <p>23 biological -- whether it was biologically</p> <p>24 plausible for Talcum Powder to cause ovarian</p>	<p style="text-align: right;">Page 92</p> <p>1 A I would --</p> <p>2 Q That is the actual Health Canada</p> <p>3 report.</p> <p>4 A I apologize. I was looking at what's</p> <p>5 marked as Exhibit 14.</p> <p>6 MS. LEHMAN: The larger report?</p> <p>7 A This is it.</p> <p>8 MS. LEHMAN: Yes. For him, he was</p> <p>9 given, the compendium is marked as 14. And the</p> <p>10 larger report was marked as 13, for what he was</p> <p>11 given.</p> <p>12 Q Okay. Let's change that now, so we</p> <p>13 don't have any confusion. Thank you very much.</p> <p>14 A Uh-huh.</p> <p>15 Q Dr. Diette, you should have in front</p> <p>16 of you the Health Canada report, not the</p> <p>17 compendium, but the full report? Do you have</p> <p>18 that?</p> <p>19 A I do.</p> <p>20 Q All right. If I can direct your</p> <p>21 attention to pages 43 and -- excuse me, page 43</p> <p>22 and page 45, if you have those handy?</p> <p>23 A Okay.</p> <p>24 Q Do you have those in front of you?</p>
<p style="text-align: right;">Page 91</p> <p>1 cancer, correct?</p> <p>2 A Correct.</p> <p>3 Q Okay. And you see on the last, about</p> <p>4 three fourths down, a category, Bias and</p> <p>5 Confounding, other elements for consideration.</p> <p>6 Do you see that on 34?</p> <p>7 A I do.</p> <p>8 Q All right. And, at the top of 35, do</p> <p>9 you see reference to your expert report of 2019?</p> <p>10 A I do.</p> <p>11 Q All right. And do you see where</p> <p>12 Health Canada had -- prior to issuing their final</p> <p>13 report on causality -- determined that they had</p> <p>14 had an opportunity to consider and accept and/or</p> <p>15 reject your opinions with regard to bias and</p> <p>16 confounding or impact on study findings?</p> <p>17 A Yeah. I mean, I think accept or</p> <p>18 reject is a little abrupt and maybe not exactly</p> <p>19 what they did.</p> <p>20 I mean, I don't know how they used the</p> <p>21 report, but they certainly acknowledged that they</p> <p>22 included it as a reference.</p> <p>23 Q Okay. Now, let me direct your</p> <p>24 attention to Exhibit Number 14.</p>	<p style="text-align: right;">Page 93</p> <p>1 A I do.</p> <p>2 Q Okay. First, let's go to page 45. Do</p> <p>3 you have that in front of you?</p> <p>4 A I do.</p> <p>5 Q The first paragraph, down to the very</p> <p>6 last sentence.</p> <p>7 A Yes.</p> <p>8 Q Okay. Where it states, "while there</p> <p>9 may not be consensus within the scientific</p> <p>10 community regarding the interpretation of</p> <p>11 epidemiological information, after weighing the</p> <p>12 available lines of evidence, the assessment</p> <p>13 determined -- that is, the Health Canada</p> <p>14 Assessment -- determined that the current data are</p> <p>15 indicative of a causal effect."</p> <p>16 Do you see that?</p> <p>17 A I do.</p> <p>18 Q Did I read that correctly?</p> <p>19 A Yes.</p> <p>20 Q All right. So, Health Canada, after</p> <p>21 they determined and did their Bradford Hill and</p> <p>22 looked at the totality of the evidence, they</p> <p>23 concluded that -- based upon the various lines of</p> <p>24 evidence, which included, not just epidemiology</p>



<p style="text-align: right;">Page 94</p> <p>1 but mechanistic data pathology -- that the</p> <p>2 assessment determined that the current lines of</p> <p>3 data are indicative of a causal effect. Is that</p> <p>4 correct?</p> <p>5 A That is their statement.</p> <p>6 Q And the opinion of Health Canada is</p> <p>7 adverse to your opinion in this case; is that</p> <p>8 correct?</p> <p>9 A It's different than mine.</p> <p>10 Q Okay. Well, you say there is no</p> <p>11 causality, and Health Canada determined that there</p> <p>12 was causality?</p> <p>13 MS. LEHMAN: Object to the form.</p> <p>14 A Oh, yes. I don't know about</p> <p>15 adverse -- if that is adversarial or something,</p> <p>16 but it's different than my opinion.</p> <p>17 Q Okay. Health Canada says there is</p> <p>18 causality?</p> <p>19 A Correct.</p> <p>20 Q And Dr. Diette says there is no</p> <p>21 causality?</p> <p>22 (Overlapping speakers.)</p> <p>23 MS. LEHMAN: Object to form.</p> <p>24 A Correct. And just for what it's</p>	<p style="text-align: right;">Page 96</p> <p>1 MS. LEHMAN: Object to the form. The</p> <p>2 document speaks for itself.</p> <p>3 A Yeah. Well, I am also not a lawyer,</p> <p>4 but the way I read it was, I know that they -- I</p> <p>5 didn't see that they limited any of the opinions</p> <p>6 of the plaintiff's --</p> <p>7 Q On general causation?</p> <p>8 A And the defense experts, for plaintiff</p> <p>9 and defense experts, they didn't limit it.</p> <p>10 And I am just trying to give a full</p> <p>11 answer because -- I am not sure I understand the</p> <p>12 legal issues -- but I think Judge Wolfson said</p> <p>13 that it was the sort of thing that could be left</p> <p>14 to a jury as opposed to her.</p> <p>15 Q Okay. Very good. Thank you. I</p> <p>16 appreciate that. Okay.</p> <p>17 Let's leave Health Canada. Let's</p> <p>18 leave Daubert. Let's leave your reports for a</p> <p>19 little bit, and let's talk a little bit about the</p> <p>20 epidemiological evidence since 2019, okay?</p> <p>21 A Okay.</p> <p>22 Q All right. Now, that is really the</p> <p>23 purpose of this deposition, for you and I to have</p> <p>24 a discussion about any and all new literature that</p>
<p style="text-align: right;">Page 95</p> <p>1 worth --</p> <p>2 Q No question pending. Dr. Diette?</p> <p>3 A I --</p> <p>4 Q No question pending.</p> <p>5 A I understand.</p> <p>6 Q No question pending.</p> <p>7 MS. LEHMAN: Dr. Diette, if you need</p> <p>8 to finish your answer --</p> <p>9 MS. PARFITT: He has finished his</p> <p>10 answer, counsel.</p> <p>11 A It's --</p> <p>12 Q Let's be fair about this. You'll have</p> <p>13 a chance to go back. He clearly finished.</p> <p>14 A No. Thank you. For this one, I did</p> <p>15 finish my answer.</p> <p>16 Q I appreciate that.</p> <p>17 A It was commentary -- it was</p> <p>18 commentary, and I understand.</p> <p>19 Q I respect that, Dr. Diette. Thank</p> <p>20 you. Okay. In addition to Health Canada, the</p> <p>21 court in the multi-district litigation also opined</p> <p>22 that opinions on causality -- in the use of Talcum</p> <p>23 Powder Products -- could in fact be admitted in a</p> <p>24 court of law, correct?</p>	<p style="text-align: right;">Page 97</p> <p>1 has surfaced in the last few years since we were</p> <p>2 together, correct?</p> <p>3 A I thought this stuff we did was part</p> <p>4 of it, too.</p> <p>5 Q It is. It is. This will be more</p> <p>6 interesting.</p> <p>7 A It took us a long time. Okay.</p> <p>8 Q This will be more interesting. Okay.</p> <p>9 Now, you understand that, since your</p> <p>10 last report, '19, that there have been</p> <p>11 publications by scientists at the National Cancer</p> <p>12 Institute and the National Institutes of Health</p> <p>13 and NIEHS, who have continued to publish on</p> <p>14 ovarian cancer in Talcum Powder, correct?</p> <p>15 A Yeah. And when you say NIH and NIEHS,</p> <p>16 NIEHS was part of NIH, so there is redundancy,</p> <p>17 but, yes. The answer is yes.</p> <p>18 Q That will save me time. I appreciate</p> <p>19 that. Thank you. All right.</p> <p>20 A Yes.</p> <p>21 Q And some of these scientists that have</p> <p>22 continued to publish in this area of Talcum Powder</p> <p>23 and ovarian cancer include individuals like</p> <p>24 Professor Katie O'Brien, correct?</p>

<p style="text-align: right;">Page 98</p> <p>1 A That is correct.</p> <p>2 Q Professor Dale Sandler?</p> <p>3 A Correct.</p> <p>4 Q And Professor Nicolas Wentzensen?</p> <p>5 A Correct.</p> <p>6 Q Do you know any of those individuals?</p> <p>7 A Not personally, but I have read -- you</p> <p>8 know, I have read research reports from all three.</p> <p>9 Q Okay. And based upon the research</p> <p>10 reports that you have read, would you consider</p> <p>11 these -- these individuals scientists?</p> <p>12 MS. LEHMAN: Objection to form.</p> <p>13 A Well, I think, I think they all have,</p> <p>14 you know, letters after their names that indicate</p> <p>15 that they are either Ph.D. or M.D., you know, so</p> <p>16 scientists of some sort.</p> <p>17 Q Okay. All right. Well, Katie O'Brien</p> <p>18 is an epidemiologist at the National Institute --</p> <p>19 NIEHS. Do you understand that?</p> <p>20 A That's my understanding.</p> <p>21 Q And do you know that she was the lead,</p> <p>22 one of the lead investigators on the Sister Study?</p> <p>23 A That's my understanding as well.</p> <p>24 Q Okay. And this is a paper, the Sister</p>	<p style="text-align: right;">Page 100</p> <p>1 A They certainly cite -- as you pointed</p> <p>2 out -- to O'Brien 2020.</p> <p>3 Q Are you aware that they cite to other</p> <p>4 O'Brien publications, other than O'Brien 2020?</p> <p>5 A Health Canada?</p> <p>6 Q Yes.</p> <p>7 A I would have to go back and look.</p> <p>8 Q Okay. But, at least we can agree that</p> <p>9 they, they being Health Canada, cite to the</p> <p>10 O'Brien 2020 study?</p> <p>11 A Of course.</p> <p>12 Q Okay. Now, Dale Sandler is a senior</p> <p>13 investigator and also chief of epidemiology at</p> <p>14 NIEHS, correct?</p> <p>15 A I don't know that, but I don't doubt</p> <p>16 you, if that's how he's represented somewhere.</p> <p>17 Q And Dr. Nicolas Wentzensen is a senior</p> <p>18 investigator with the clinical genetics branch of</p> <p>19 the Division of Cancer, Epidemiology and Genetics</p> <p>20 at NIH. Do you know that?</p> <p>21 A I don't doubt it, but I don't know</p> <p>22 that as a fact.</p> <p>23 Q And, again, have you been at any</p> <p>24 professional meetings with any of these</p>
<p style="text-align: right;">Page 99</p> <p>1 Study is a paper, in fact, which you rely upon for</p> <p>2 your opinions in this case?</p> <p>3 A Just -- just to be correct, for me,</p> <p>4 papers that come from the Sister Study are</p> <p>5 included in what I rely on.</p> <p>6 Q All right. And one such paper that</p> <p>7 comes -- well, we have --</p> <p>8 The Sister Study is also known as the</p> <p>9 Gonzalez study?</p> <p>10 A So, Gonzalez is the lead author on one</p> <p>11 of the publications from the Sister Study.</p> <p>12 Q That stems from the Sister Study?</p> <p>13 A That is correct.</p> <p>14 Q And, over the course of the years,</p> <p>15 there have been several publications that are</p> <p>16 derived from some of the data and additional data</p> <p>17 that came from the original Sister Study?</p> <p>18 A That is correct.</p> <p>19 Q Okay. And Health Canada quotes</p> <p>20 Dr. O'Brien in their assessment of causality in</p> <p>21 this case; is that correct?</p> <p>22 A Do they quote her or just cite her?</p> <p>23 Q That is fair. They cite to her</p> <p>24 reference?</p>	<p style="text-align: right;">Page 101</p> <p>1 individuals?</p> <p>2 A Not that I am aware of.</p> <p>3 Q Okay. So, it would be fair to say,</p> <p>4 any information or knowledge you have of these</p> <p>5 individuals would be information you've derived</p> <p>6 from reading their publications that have been in</p> <p>7 the peer-reviewed literature?</p> <p>8 A That's correct.</p> <p>9 Q Okay. Would you say that, since 2019,</p> <p>10 these individuals have been fairly prolific with</p> <p>11 regard to their publications on Talcum Powder and</p> <p>12 ovarian cancer?</p> <p>13 MS. LEHMAN: Object to the form.</p> <p>14 A Yeah. I don't know where the line is</p> <p>15 for "prolific," but they certainly contributed to</p> <p>16 the literature.</p> <p>17 Q Okay. Now, we talked briefly about</p> <p>18 IARC, when we were discussing whether or not IARC</p> <p>19 had ever retained your professional services on</p> <p>20 the issue of Talcum Powder in ovarian cancer.</p> <p>21 Are you aware that, back in March of</p> <p>22 2019, the advisory group for the IARC scientists</p> <p>23 recommended a certain priority list for chemicals</p> <p>24 and substances that perhaps could be considered</p>

<p style="text-align: right;">Page 102</p> <p>1 for review by the IARC, and that is the</p> <p>2 International Association of Research on Cancer?</p> <p>3 MS. LEHMAN: I would just object to</p> <p>4 any questions about the March 2019 priority list</p> <p>5 because that could have been covered in the</p> <p>6 April 2019 deposition.</p> <p>7 Q Do you know, Dr. Diette, whether or</p> <p>8 not IARC developed a priority list back in March</p> <p>9 of 2019?</p> <p>10 A I have seen a priority list. I mean I</p> <p>11 have seen more than one because they do that from</p> <p>12 time to time. I don't know the dates of any of</p> <p>13 them.</p> <p>14 Q Okay. Then I will refresh your</p> <p>15 recollection.</p> <p>16 This is, frankly, a foundational</p> <p>17 question that, back in March of 2019, IARC placed</p> <p>18 talc as a high priority for review by the IARC</p> <p>19 committee. Do you have that recollection?</p> <p>20 A I don't.</p> <p>21 MS. LEHMAN: Objection.</p> <p>22 A That is what I am saying, I don't -- I</p> <p>23 don't know the dates.</p> <p>24 MS. LEHMAN: I would object to form</p>	<p style="text-align: right;">Page 104</p> <p>1 in 2019, the advisory for the World Health</p> <p>2 Organization, IARC, made the decision to re-review</p> <p>3 Talcum Powder as a high priority for purposes of</p> <p>4 any upcoming IARC meetings to discuss</p> <p>5 classification or reclassification of carcinogens?</p> <p>6 MS. LEHMAN: Same objection.</p> <p>7 A I don't doubt you, but the high</p> <p>8 priority part, I didn't get a chance to read that.</p> <p>9 So I just was confirming the date and whether I</p> <p>10 had seen it.</p> <p>11 Q Sure. Absolutely. And I am</p> <p>12 referencing, there's a box here, and it talks</p> <p>13 about agents recommended for evaluation with high</p> <p>14 priority?</p> <p>15 A True.</p> <p>16 Q And it lists talc?</p> <p>17 A Yes.</p> <p>18 Q Very good. Thank you. Okay. Thank</p> <p>19 you. All right. Let's fast forward to 2024.</p> <p>20 Are you aware that IARC is</p> <p>21 convening -- even as we sit here today -- to</p> <p>22 discuss the classification of Talcum Powder?</p> <p>23 A Yeah. I understand they are</p> <p>24 undergoing the review now.</p>
<p style="text-align: right;">Page 103</p> <p>1 and, again, object to any questions that could</p> <p>2 have been covered in April of 2019.</p> <p>3 Q Dr. Diette, let me show you, and I'll</p> <p>4 get a clean copy for purposes of the record, but</p> <p>5 we will have it marked as -- what are we up to?</p> <p>6 MR. TISI: We're up to Exhibit 15.</p> <p>7 (Diette Exhibit 15 was marked for</p> <p>8 purposes of identification.)</p> <p>9 Q Again, I will correct for the record</p> <p>10 what I am going to show you, Dr. Diette, and I</p> <p>11 will identify it as Advisory Group Recommendation</p> <p>12 on Priorities for the IARC Monograph.</p> <p>13 And it is -- was produced on June 2019</p> <p>14 in the Lancet Oncology Paper. If I may, let me</p> <p>15 show you that.</p> <p>16 A Sure.</p> <p>17 Q And we are just going to spend a</p> <p>18 minute on this, just to refresh your recollection.</p> <p>19 Have you ever seen that document</p> <p>20 before?</p> <p>21 A I am not sure. I might have. I'm not</p> <p>22 sure.</p> <p>23 Q Okay. Will you take my</p> <p>24 representation -- thank you, Doctor -- that back</p>	<p style="text-align: right;">Page 105</p> <p>1 Q Okay. How did you learn that IARC was</p> <p>2 undergoing their review of Talcum Powder?</p> <p>3 A They've published it. I mean they've</p> <p>4 published like a couple of things, including that</p> <p>5 they are -- that they are doing it.</p> <p>6 Q Okay. Let me show you what we will</p> <p>7 have marked then as Exhibit --</p> <p>8 MS. LEHMAN: 16.</p> <p>9 MR. TISI: We're leaving a space for</p> <p>10 15, right?</p> <p>11 Q Yes. While we're pulling up that</p> <p>12 document, Dr. Diette, is it fair to say that these</p> <p>13 advisory groups are periodically convened -- of</p> <p>14 scientists from around the world -- to discuss the</p> <p>15 current state of scientific knowledge vis-a-vis</p> <p>16 agents, chemicals that may have some</p> <p>17 carcinogenicity?</p> <p>18 A That's my understanding. Thank you.</p> <p>19 Q And do you have an understanding that,</p> <p>20 when an agent is labeled as a "high priority,"</p> <p>21 that is a classification that is based upon</p> <p>22 evidence of human exposure and the extent of</p> <p>23 available evidence regarding carcinogenicity?</p> <p>24 A Yeah. You said -- was human in there?</p>



<p style="text-align: right;">Page 106</p> <p>1 Q Human.</p> <p>2 A Human, yes. Yes.</p> <p>3 Q Okay. All right. Now, you know from</p> <p>4 our last discussion that, back in 2006, IARC</p> <p>5 convened to discuss the classification of talc?</p> <p>6 A Aren't you going to object?</p> <p>7 MS. LEHMAN: Yes. I am sorry.</p> <p>8 THE WITNESS: Sorry.</p> <p>9 MS. LEHMAN: I was coughing, and it</p> <p>10 took me a second.</p> <p>11 MS. PARFITT: I was going to do it for</p> <p>12 you.</p> <p>13 MS. LEHMAN: Yes. So, I am going to</p> <p>14 object to that.</p> <p>15 MS. PARFITT: Okay.</p> <p>16 MS. LEHMAN: That clearly happened</p> <p>17 long before the 2018 started, the scope of this</p> <p>18 deposition.</p> <p>19 Q Dr. Diette, the purpose of that</p> <p>20 question is simply this.</p> <p>21 Talcum Powder has not been reviewed --</p> <p>22 and the current state of the literature on Talcum</p> <p>23 Powder and its association with ovarian cancer -</p> <p>24 since 2006; is that fair?</p>	<p style="text-align: right;">Page 108</p> <p>1 line are we?</p> <p>2 Q At the top, it says, IARC Monographs</p> <p>3 and the Identification of Carcinogenic Hazards to</p> <p>4 Humans?</p> <p>5 A Yes.</p> <p>6 Q And then it talks about talc and --</p> <p>7 A Acrylonitrile.</p> <p>8 Q Okay. And it indicates that they are</p> <p>9 meeting between, in France, between June 11th and</p> <p>10 June 2024, or June 18th, 2024, correct?</p> <p>11 A That is correct.</p> <p>12 Q Okay. And the International Agency</p> <p>13 for Research on Cancer is part of the World Health</p> <p>14 Organization; is that fair?</p> <p>15 A That's right.</p> <p>16 Q Okay. Did IARC request that you</p> <p>17 attend and participate as an advisory member to</p> <p>18 assess and review the classification of</p> <p>19 carcinogenicity of Talcum Powder for this meeting?</p> <p>20 A They didn't, but I am not sure that's</p> <p>21 the process they use. I think they use a process</p> <p>22 of nominations.</p> <p>23 Q Were you nominated?</p> <p>24 A I was not.</p>
<p style="text-align: right;">Page 107</p> <p>1 MS. LEHMAN: Objection.</p> <p>2 A By IARC.</p> <p>3 Q By IARC, correct. Okay.</p> <p>4 So, it's been almost 18 years since</p> <p>5 IARC has had an opportunity to review the science</p> <p>6 and evidence surrounding Talcum Powder exposure in</p> <p>7 the genital area in ovarian cancer?</p> <p>8 MS. LEHMAN: I object to form and</p> <p>9 object to the scope, as its beyond the limited</p> <p>10 scope of this deposition.</p> <p>11 A Yes.</p> <p>12 Q Let me show you what we will have</p> <p>13 marked, or has been marked as Exhibit 16, which</p> <p>14 you have in front of you?</p> <p>15 A Yes.</p> <p>16 (Diette Exhibit 16 was marked for</p> <p>17 purposes of identification.)</p> <p>18 Q Okay. What that is, Dr. Diette, for</p> <p>19 the record, is IARC Monographs of the</p> <p>20 Identification of Carcinogen Hazards --</p> <p>21 Carcinogenic Hazards to Humans.</p> <p>22 It's volume 136, Talc, and how would</p> <p>23 you say the next word, acrylonitrile?</p> <p>24 A Let me just catch up to you. Which</p>	<p style="text-align: right;">Page 109</p> <p>1 Q Okay. Do you see where Katie</p> <p>2 O'Brien -- who is one of the authors of the</p> <p>3 various O'Brien papers, and is with the National</p> <p>4 Institute of Environmental Health -- is invited as</p> <p>5 a member to sit on the Advisory Committee to</p> <p>6 evaluate the classification of carcinogenicity for</p> <p>7 talc?</p> <p>8 A I do.</p> <p>9 Q Okay. Do you also see that, on the</p> <p>10 next page, Nick Wentzensen -- who is with the</p> <p>11 Clinical Genetics Branch of the National Cancer</p> <p>12 Institute -- was also invited to be a member and</p> <p>13 to sit to review the ultimate classification level</p> <p>14 for Talcum Powder?</p> <p>15 A Yes.</p> <p>16 Q Okay. Do you know --</p> <p>17 Let's look on this. You see that</p> <p>18 there is a reference to a Kenneth Mundt.</p> <p>19 Do you see that? It is under</p> <p>20 "observers."</p> <p>21 Mr. Mundt would not be a member of the</p> <p>22 Advisory Committee, but he is listed under</p> <p>23 observers. Do you see that?</p> <p>24 A I do.</p>

<p style="text-align: right;">Page 110</p> <p>1 Q Do you know who Ken Mundt is? They</p> <p>2 say he is with -- an independent consultant in</p> <p>3 epidemiology at University of Mass.?</p> <p>4 A I don't know him.</p> <p>5 Q Okay. I see a footnote at the bottom,</p> <p>6 number 5.</p> <p>7 It says, "he's an independent</p> <p>8 consultant and declares benefiting from personal</p> <p>9 consultancy fees from EUROTALC and CTIS."</p> <p>10 Do you know anything about EUROTALC,</p> <p>11 what that is?</p> <p>12 A I don't know what that is.</p> <p>13 Q You don't know what that consulting</p> <p>14 agency is?</p> <p>15 A No.</p> <p>16 Q And how about CTIS?</p> <p>17 A It's not familiar to me.</p> <p>18 Q Okay. So, other than companies that</p> <p>19 work on behalf of cosmetic companies and in the</p> <p>20 talc litigation, you don't have any further</p> <p>21 information about what those consulting groups do?</p> <p>22 A So, I don't know. Are those</p> <p>23 consulting groups? Like because it says,</p> <p>24 consulting fee from EUROTALC and CTIS.</p>	<p style="text-align: right;">Page 112</p> <p>1 Q In fact, IARC goes to great lengths to</p> <p>2 perpetuate an independent culture of the</p> <p>3 scientists and researchers that attend those</p> <p>4 meetings, correct?</p> <p>5 MS. LEHMAN: Object to the form.</p> <p>6 A I believe that, but I don't know the</p> <p>7 facts about that.</p> <p>8 Q Okay. Let's leave that and go to some</p> <p>9 studies. What I would like you to do is --</p> <p>10 A And are we at a decent breaking point?</p> <p>11 Q Actually, this is a great breakpoint.</p> <p>12 (There was a break in the proceedings</p> <p>13 at 11:35 a.m. and testimony resumed at 11:45 a.m.)</p> <p>14 MR. TISI: This is going to be</p> <p>15 Number 17.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Dr. Diette, after a short break, let's</p> <p>18 talk a little bit about the literature and studies</p> <p>19 since 2019.</p> <p>20 And I'll represent to you, as a road</p> <p>21 map, we will be spending some time on the O'Brien,</p> <p>22 et al. collection of studies and research.</p> <p>23 A Sure.</p> <p>24 Q The first one, we will have marked now</p>
<p style="text-align: right;">Page 111</p> <p>1 Q Huh-uh.</p> <p>2 A It suggests to me that -- I don't know</p> <p>3 what those entities are.</p> <p>4 Q That is fair.</p> <p>5 A But it sounds to me like he is the</p> <p>6 consultant who is receiving like funds from</p> <p>7 whatever those kinds of entities are.</p> <p>8 Q Okay. Fair enough. All right. But</p> <p>9 you've not engaged and had performed work for</p> <p>10 those two agencies, correct?</p> <p>11 A Correct.</p> <p>12 Q Okay. Fair enough. Have you had any</p> <p>13 discussions with anyone with regard to how those</p> <p>14 discussions before IARC were proceeding?</p> <p>15 A No.</p> <p>16 Q You've not heard --</p> <p>17 A You mean, how they are proceeding</p> <p>18 right now?</p> <p>19 Q Correct, in 2024.</p> <p>20 A No, no, no. No.</p> <p>21 Q Have you made any inquiry to any</p> <p>22 potential attendees to that meeting?</p> <p>23 A I haven't, and I think it's improper,</p> <p>24 but I have not.</p>	<p style="text-align: right;">Page 113</p> <p>1 as Exhibit Number --</p> <p>2 MR. TISI: 17.</p> <p>3 (Diette Exhibit 17 was marked for purposes</p> <p>4 of identification.)</p> <p>5 Q Seventeen, and that is a report by</p> <p>6 Drs. O'Brien, Sandler and Wentzensen, and it's</p> <p>7 entitled, "Association of Powder Use in the</p> <p>8 Genital Area with the Risk of Ovarian Cancer."</p> <p>9 It's a JAMA publication, 2020.</p> <p>10 I believe that you have that in front</p> <p>11 of you?</p> <p>12 A I do.</p> <p>13 Q Okay. Have you read that study?</p> <p>14 A I have.</p> <p>15 Q All right. And this is the study that</p> <p>16 we were talking about that, in your report, you</p> <p>17 had misstated that Health Canada had not</p> <p>18 considered this study, correct?</p> <p>19 MS. LEHMAN: Object to the form.</p> <p>20 A Yeah. It was a correct statement in</p> <p>21 the original, in the original report, but I didn't</p> <p>22 update it so it became incorrect.</p> <p>23 Q Okay. All right. Did you personally</p> <p>24 update your references for your March -- or,</p>

<p style="text-align: right;">Page 114</p> <p>1 excuse me, May 28th, 2024 report?</p> <p>2 A I hope so.</p> <p>3 Q Or did someone else do that?</p> <p>4 A Oh, I mean I selected them. I mean</p> <p>5 there is a person like a helper who literally like</p> <p>6 types it into the -- into the list; and, you know,</p> <p>7 where there is a footnote needed, makes the</p> <p>8 footnote.</p> <p>9 Q Okay.</p> <p>10 A But I create the, you know, the list</p> <p>11 of what they are.</p> <p>12 Q Okay. All right. And currently -- in</p> <p>13 your May 2024 report -- you include O'Brien 2020?</p> <p>14 A I believe so.</p> <p>15 Q Okay. And, as I appreciate my read of</p> <p>16 your report of 2024. You rely on O'Brien 2020 and</p> <p>17 its full results of the prospective cohort studies</p> <p>18 to confirm your opinion that the epidemiology</p> <p>19 supporting a causal link between Talcum Powder and</p> <p>20 ovarian cancer is weak?</p> <p>21 A I include that in that, in that</p> <p>22 assessment, that's right.</p> <p>23 Q Okay. So, just to unpack that general</p> <p>24 opinion, you do admit -- in your report of 2024 --</p>	<p style="text-align: right;">Page 116</p> <p>1 they -- you couldn't qualify prolific, but you</p> <p>2 could say that they have made recent contributions</p> <p>3 to the body of science and epidemiological</p> <p>4 literature, concerning exposures to Talcum Powder</p> <p>5 in the genital area and ovarian cancer; is that</p> <p>6 correct?</p> <p>7 A It is.</p> <p>8 Q Okay. Now, let's unpack a little bit</p> <p>9 the O'Brien study and see what we can agree upon</p> <p>10 and what we can't.</p> <p>11 Would you characterize it as a</p> <p>12 prospective pooled study?</p> <p>13 A It's prospective, and it's a pooling</p> <p>14 of cohort studies.</p> <p>15 Q In fact, it's the largest cohort study</p> <p>16 to date?</p> <p>17 MS. LEHMAN: Object to the form.</p> <p>18 A When it's combined -- when the</p> <p>19 multiple cohort studies are combined -- it becomes</p> <p>20 the largest study of that sort to date.</p> <p>21 Q Okay. And it includes -- it being</p> <p>22 O'Brien 2020 -- more than 250 thousand women from</p> <p>23 the collective group of the cohort studies?</p> <p>24 A That is correct.</p>
<p style="text-align: right;">Page 115</p> <p>1 that there is an association between genital use</p> <p>2 of Talcum Powder and ovarian cancer, but you</p> <p>3 qualify that risk as weak?</p> <p>4 MS. LEHMAN: Object to the form.</p> <p>5 Q Fair?</p> <p>6 A "Admit" is a weird word for me to</p> <p>7 think about it. It sounds kind of legal. But I</p> <p>8 did acknowledge what their finding was, and their</p> <p>9 finding is objectively weak.</p> <p>10 Q But you acknowledge that your review</p> <p>11 of the epidemiological literature reveals that</p> <p>12 there is evidence of an association between Talcum</p> <p>13 Powder use in the genital area and ovarian cancer,</p> <p>14 but you qualify it as weak?</p> <p>15 MS. LEHMAN: Object to the form.</p> <p>16 A Yeah. In that one particular study.</p> <p>17 I mean, not as a -- not as a broad statement that</p> <p>18 is true across the literature, but specifically in</p> <p>19 this O'Brien 2020.</p> <p>20 Q You previously, when I asked you about</p> <p>21 the authors O'Brien and Sandler and Wentzensen, I</p> <p>22 asked you whether or not they were prolific</p> <p>23 writers.</p> <p>24 And your response, I believe, was that</p>	<p style="text-align: right;">Page 117</p> <p>1 Q And is it fair to say that those</p> <p>2 cohort studies include NHS1, NHS2, WHI and the</p> <p>3 Sister Study?</p> <p>4 A Absolutely.</p> <p>5 Q Dr. O'Brien and Dr. Sandler were also</p> <p>6 investigators and authors of the 2016 Sister Study</p> <p>7 that we've spoken of, the Gonzalez study?</p> <p>8 MS. LEHMAN: Object to the form.</p> <p>9 Asked and answered. This also goes back to before</p> <p>10 2019.</p> <p>11 A I think I recall it. I would have to</p> <p>12 look at the author list to actually confirm that.</p> <p>13 Q We will have the Gonzalez marked as</p> <p>14 Exhibit Number 18.</p> <p>15 (Diette Exhibit 18 was marked for</p> <p>16 purposes of identification.)</p> <p>17 Q Okay. If you look at the top of the</p> <p>18 2016 Gonzalez entitled, Douching, Talc Use and</p> <p>19 Risk of Ovarian Cancer.</p> <p>20 Do you see that Dr. O'Brien and</p> <p>21 Dr. Sandler are both authors?</p> <p>22 MS. LEHMAN: I object to the form.</p> <p>23 A Yes, I do.</p> <p>24 MS. LEHMAN: And I object to the</p>

<p style="text-align: right;">Page 118</p> <p>1 scope, since this relates to an article that was  2 written long before 2019.  3 A Yes, I do.  4 Q Okay. Is it your understanding --  5 from your review of the 2020 O'Brien study, that,  6 as part of their undertaking -- they increased  7 their work and their research, and the data  8 produced, increased the number of cases and  9 extended the follow-up periods?  10 A Yes. Both of those things happened.  11 Q Okay. And, after pooling the results  12 of the various cohort studies -- all the cohort  13 studies, frankly, that were in existence up to  14 that period of time -- O'Brien and her colleagues  15 found that the risk for ever versus never and  16 Talcum Powder and ovarian cancer was 1.08?  17 A 1.08 and non-statistically  18 significant.  19 Q It did show an overall increase of  20 8 percent for women, correct?  21 A I don't know if that's the way I would  22 characterize it. I mean it's really -- really  23 close to a null result, but it is what it is.  24 It's a 1.08. That is not</p>	<p style="text-align: right;">Page 120</p> <p>1 results were statistically significant?  2 A Yeah. But that's what everybody says  3 about every study that is negative; what if it had  4 been something else? But it's not.  5 The data don't support that. They  6 support the actual findings.  7 Q My question is simply this.  8 Would you have characterized a  9 1.08 hazard ratio with a confidence interval of  10 1.01 to 1.17 as statistically significant?  11 A I would.  12 MS. LEHMAN: Object to the form.  13 Asked and answered.  14 Q Now, in addition to looking at the  15 ever-never use of Talcum Powder, the authors in  16 O'Brien '22 also included women who have patent,  17 patent tubes. Do you see that?  18 A Right. They used that label.  19 Q Okay. And so the authors of O'Brien  20 2020 did a sub-analysis of women who had patent  21 tubes and compared it to women who did not have  22 patent tubes; is that fair?  23 A It was one of a tremendous number of  24 subgroup analyses that they did.</p>
<p style="text-align: right;">Page 119</p> <p>1 statistically significant.  2 Q And, as I appreciate your opinions,  3 may I assume that -- sitting here today in 2024 --  4 that your opinions continue with regard to  5 statistical significance that -- unless something  6 is statistically significant -- it is not a  7 positive study?  8 A No. I mean, I think that, I think  9 what I've tried to express in the past is  10 statistical significance hasn't been thrown out  11 the door, which I think was the thrust of the  12 2019, you know, deposition.  13 And that it's an important part of  14 what is presented by the authors, but it's  15 something to consider when looking at the -- at  16 the reported evidence.  17 Q Dr. Diette, the confidence intervals  18 for the O'Brien 2020 study were .99 to 1.17, which  19 you describe as not statistically significant; is  20 that correct?  21 A That is correct.  22 Q If the confidence intervals had been  23 1.01 to 1.17, instead of .99 to 1.17, would your  24 opinion -- sitting here today -- be that the</p>	<p style="text-align: right;">Page 121</p> <p>1 Q Okay. And, as part of the statistical  2 analysis that those authors in 2020 employed, they  3 hypothesized, a priori, that women with patent  4 productive tracts would be more susceptible to  5 exposure effects of powder use in the genital area  6 for cancer; is that correct?  7 A That's what their paper says.  8 Q Okay. Would you agree that -- having  9 looked at the subset of women who had patent  10 tracts versus non-patent tracts -- that the  11 authors concluded that there was a statistically  12 significant effect between Talcum Powder in the  13 genital area and ovarian cancer, for women who had  14 patent tracts?  15 A Not clearly, and I think they  16 expressed themselves two ways.  17 One was with the finding that you're  18 describing. But they also compared the difference  19 between the patent and non-patent tract -- and  20 found overlap of the confidence intervals -- and  21 said that they did not find a statistically  22 significant difference between the two groups.  23 Q That wasn't my question. My question  24 is this.</p>

<p style="text-align: right;">Page 122</p> <p>1 The authors in the O'Brien 2020, their</p> <p>2 study results demonstrated that, for patent tubes,</p> <p>3 the hazard ratio was 1.13 with a confidence of</p> <p>4 1.01 to 1.26.</p> <p>5 That is a statistically significant</p> <p>6 association, correct?</p> <p>7 A So that is a statement.</p> <p>8 Q Just answer that first.</p> <p>9 A No, no, no.</p> <p>10 Q Then I'll let you explain.</p> <p>11 A No, no, no, because I already answered</p> <p>12 your question, I think, appropriately, because of</p> <p>13 the way that you phrased it.</p> <p>14 Because I don't think that you can say</p> <p>15 that the sum total of the way that they expressed</p> <p>16 what they thought was significant, is only that</p> <p>17 particular statement.</p> <p>18 The way you phrased it, I thought,</p> <p>19 invited me to also talk about the other findings</p> <p>20 that they say, which is --</p> <p>21 Q No.</p> <p>22 THE REPORTER: I'm sorry, which is</p> <p>23 what?</p> <p>24 A Which is that there is no</p>	<p style="text-align: right;">Page 124</p> <p>1 between the powder application area and the</p> <p>2 ovaries, we had hypothesized, apriori, that women</p> <p>3 with patent reproductive tracts would be more</p> <p>4 susceptible to the effects of powder use in the</p> <p>5 genital area and ovarian cancer.</p> <p>6 Did I read that correctly?</p> <p>7 A Yes, you did.</p> <p>8 Q All right. So, one thing we know</p> <p>9 about what the study authors did is they</p> <p>10 hypothesized, a priori, that it was biologically</p> <p>11 plausible for women exposed to Talcum Powder to</p> <p>12 have that migrate through the reproductive system,</p> <p>13 correct?</p> <p>14 MS. LEHMAN: Object to the form.</p> <p>15 A Yeah. They were stating that the</p> <p>16 tract had to be open in order for talc to reach</p> <p>17 the ovaries.</p> <p>18 Q Now, you have criticized some of the</p> <p>19 opinions of the plaintiff's experts for stating</p> <p>20 that -- for their position that the O'Brien lacked</p> <p>21 power. Do you remember stating that in your</p> <p>22 expert report from 2024?</p> <p>23 A I think so, yes. I mean, it sounds</p> <p>24 like me.</p>
<p style="text-align: right;">Page 123</p> <p>1 statistically significant difference between the</p> <p>2 groups that have patent and non-patent</p> <p>3 reproductive tracts.</p> <p>4 Q Dr. Diette, is it true that, when the</p> <p>5 investigators looked at women who had patent</p> <p>6 reproductive tracts only, their study findings</p> <p>7 revealed that there was a hazard ratio of 1.13,</p> <p>8 with a confidence interval of 1.01 to 1.26, which</p> <p>9 was statistically significant for the association</p> <p>10 between genital use of Talcum Powder and ovarian</p> <p>11 cancer, correct?</p> <p>12 MS. LEHMAN: Objection. Asked and</p> <p>13 answered.</p> <p>14 A That is correct.</p> <p>15 Q Let me direct your attention to</p> <p>16 page 51 of that article. Tell me when you're</p> <p>17 there?</p> <p>18 A I am.</p> <p>19 Q Okay. And this hypothesis -- with</p> <p>20 regard to what the relative risk would be for</p> <p>21 women with patent tubes -- was indeed an a priori</p> <p>22 hypothesis as reflected in, I guess it's the third</p> <p>23 full paragraph on page 51, because patency is</p> <p>24 required for there to be a direct physical pathway</p>	<p style="text-align: right;">Page 125</p> <p>1 Q Okay. Let me direct your attention to</p> <p>2 page 57 of the O'Brien 2020. Are you there?</p> <p>3 A 57? Yes.</p> <p>4 Q Okay. And at the bottom, do you see,</p> <p>5 conclusions?</p> <p>6 A Yes.</p> <p>7 Q Okay. And it reads, "in this analysis</p> <p>8 of pooled data from women in four U.S. cohorts,</p> <p>9 there was not a statistically significant</p> <p>10 association between self-reported use of powder in</p> <p>11 the genital area and incident ovarian cancer."</p> <p>12 "However, the study may have been</p> <p>13 underpowered to identify a small increase in</p> <p>14 risk."</p> <p>15 So, the O'Brien authors also</p> <p>16 considered the fact that the hazard ratio for the</p> <p>17 ever-never use of Talcum Powder may have been</p> <p>18 impacted by the fact that the studies were</p> <p>19 underpowered, correct? That's what they state?</p> <p>20 MS. LEHMAN: Object to the form.</p> <p>21 A Oh, yeah. I mean that's their</p> <p>22 statement. You don't want my opinions about any</p> <p>23 of this, right?</p> <p>24 Q No.</p>



<p style="text-align: right;">Page 126</p> <p>1 A Okay.</p> <p>2 Q I assume you disagree with that?</p> <p>3 A Earlier you said, we were going to try</p> <p>4 to find where we agree and disagree.</p> <p>5 All I'm agreeing with you, so far, is</p> <p>6 just what you're reading is accurate. I don't</p> <p>7 think we're finding where we agree and disagree.</p> <p>8 Q Well, you stated in your report -- and</p> <p>9 I assume that is your opinion -- that the author's</p> <p>10 position with regard to the fact that the cohort</p> <p>11 studies in O'Brien 2020 were not deficient, for</p> <p>12 lack of better words, because they were -- they</p> <p>13 lacked power, that was your opinion in your</p> <p>14 report?</p> <p>15 MS. LEHMAN: Object to the form.</p> <p>16 (Overlapping speakers.)</p> <p>17 A Yeah. That's my opinion.</p> <p>18 Q All right.</p> <p>19 A And it's a throw-away --</p> <p>20 Q So that is your opinion.</p> <p>21 A Okay.</p> <p>22 Q So, the O'Brien authors addressed your</p> <p>23 criticism, and they, too, stated in their study</p> <p>24 that they did not agree with Dr. Diette; that they</p>	<p style="text-align: right;">Page 128</p> <p>1 What I said, I think is true, is that</p> <p>2 there was sufficient power based on what other --</p> <p>3 other people have published.</p> <p>4 But, also, this is a very weak</p> <p>5 statement. This doesn't say it was underpowered.</p> <p>6 It says it may have been underpowered.</p> <p>7 Every study may have been</p> <p>8 underpowered. There's not a study on earth that</p> <p>9 might not have been underpowered.</p> <p>10 So, I don't -- I don't think they</p> <p>11 refute what I've said. I just wanted to be clear</p> <p>12 what I was answering.</p> <p>13 Q All right. And the article will speak</p> <p>14 for itself as well.</p> <p>15 A A hundred percent.</p> <p>16 Q And the authors will speak for</p> <p>17 themselves.</p> <p>18 MR. TISI: Here is Exhibit 19.</p> <p>19 Q Okay. Exhibit 19 is what we will have</p> <p>20 marked as an editorial by Drs. Harlow and Rothman.</p> <p>21 (Diette Exhibit 19 was marked for</p> <p>22 purposes of identification.)</p> <p>23 Q Do you have that in front of you?</p> <p>24 A I don't have an editorial. I have</p>
<p style="text-align: right;">Page 127</p> <p>1 too considered the fact that the cohort studies</p> <p>2 may be underpowered? Yes or no?</p> <p>3 A I disagree with that.</p> <p>4 Q Okay. That's -- that's --</p> <p>5 A Yes.</p> <p>6 Q -- the answer. That's the answer?</p> <p>7 A Okay.</p> <p>8 Q You disagree with it.</p> <p>9 Your counsel can ask you questions.</p> <p>10 A All right.</p> <p>11 Q Now, let me show you what we will have</p> <p>12 marked, I believe now we're up to Exhibit</p> <p>13 Number 19?</p> <p>14 A Can I make clear what I disagree with?</p> <p>15 Q Your counsel can ask you that.</p> <p>16 A Because I don't know if you're going</p> <p>17 to know the answer to your question if I don't?</p> <p>18 Q Dr. Diette, I asked a question about</p> <p>19 whether the studies were underpowered, and whether</p> <p>20 or not you agreed that would impact study results,</p> <p>21 and I believe you said, it would not?</p> <p>22 A What I was hearing, also, was that</p> <p>23 they refuted my opinion; and that's what I</p> <p>24 disagree with, that they refuted it.</p>	<p style="text-align: right;">Page 129</p> <p>1 Letters to the Editor.</p> <p>2 Q Good point.</p> <p>3 THE REPORTER: Letters to what?</p> <p>4 A To the editor.</p> <p>5 Q And let me correct --</p> <p>6 Thank you, Dr. Diette, I appreciate</p> <p>7 that. What we've had marked as Exhibit 19 is</p> <p>8 indeed a letter to the editor by Drs. Harlow and</p> <p>9 Rothman, along with their colleague Dr. Murray.</p> <p>10 Do you see that?</p> <p>11 A I do.</p> <p>12 Q Okay. Now, after the O'Brien 2020</p> <p>13 paper was published, Drs. Harlow and Rothman and</p> <p>14 Murray also published a letter to the editor in</p> <p>15 JAMA, correct?</p> <p>16 A Yes. That's correct.</p> <p>17 Q Prior to this deposition, you had a</p> <p>18 chance to read those?</p> <p>19 A Yes.</p> <p>20 Q Okay. Do you know Dr. Harlow?</p> <p>21 A No.</p> <p>22 Q Do you know Dr. Rothman?</p> <p>23 A I know of Dr. Rothman, but I don't</p> <p>24 know him personally.</p>

<p style="text-align: right;">Page 130</p> <p>1 Q Okay. How do you know of Dr. Rothman?</p> <p>2 A I've seen publications of his. I've</p> <p>3 heard people mention that he wrote a book, but I</p> <p>4 haven't read his book.</p> <p>5 Q Okay. You are aware that he has</p> <p>6 written, actually, a series of textbooks on</p> <p>7 epidemiology, Modern Epidemiology by Dr. Rothman?</p> <p>8 A I don't know them. I mean, at Johns</p> <p>9 Hopkins, his books aren't the ones that we used</p> <p>10 when I've been either teaching or training there.</p> <p>11 (Overlapping speakers.)</p> <p>12 Q But you aren't questioning that</p> <p>13 Dr. Rothman is an epidemiologist who has, again,</p> <p>14 published in a prolific manner --</p> <p>15 A Oh, yeah.</p> <p>16 Q -- on the field of epidemiology?</p> <p>17 A Oh, yeah. And, to be clear, I'm not</p> <p>18 trying to disparage him. I just like, my</p> <p>19 awareness of his work isn't as profound as it</p> <p>20 might be, if we used his textbooks, for example.</p> <p>21 Q Okay. Fair enough. All right.</p> <p>22 Now, you know that Dr. Rothman is --</p> <p>23 you referenced in your report that, while you read</p> <p>24 these Letters to the Editors, you discounted them</p>	<p style="text-align: right;">Page 132</p> <p>1 A No, I don't. Not only mine, but I'm</p> <p>2 not saying he should be disregarded.</p> <p>3 But I think it's an important fact</p> <p>4 that should be considered when interpreting, you</p> <p>5 know, what they're writing.</p> <p>6 Q Okay. Should the fact that you are an</p> <p>7 expert for Johnson &amp; Johnson be an important fact,</p> <p>8 when determining what your opinions are, as</p> <p>9 expressed in your report, and, frankly, your</p> <p>10 testimony here today?</p> <p>11 MS. LEHMAN: The same objection.</p> <p>12 A I think -- I mean, I think it's fair</p> <p>13 for people to consider them because it's a fact.</p> <p>14 Q All right. So the ladies and</p> <p>15 gentlemen of the jury -- when they listen to you</p> <p>16 and your testimony at the trial of this case --</p> <p>17 should consider the fact, when evaluating the</p> <p>18 breadth and the value of your opinions, the fact</p> <p>19 that you are getting paid by J&amp;J, and you have</p> <p>20 been paid by J&amp;J over the course of --</p> <p>21 A I think they should --</p> <p>22 Q -- almost seven years?</p> <p>23 MS. LEHMAN: Same objection.</p> <p>24 A I think they should consider each and</p>
<p style="text-align: right;">Page 131</p> <p>1 because both Drs. Harlow and Rothman were experts</p> <p>2 for the plaintiff.</p> <p>3 Do you remember stating that in your</p> <p>4 report?</p> <p>5 A I don't know if I used the word</p> <p>6 "discount," but I may have acknowledged that they</p> <p>7 are.</p> <p>8 Q They are what?</p> <p>9 A Oh, that they're paid experts.</p> <p>10 Q Okay. And, because they are --</p> <p>11 One, do you know if Dr. Rothman is a</p> <p>12 paid expert in this litigation?</p> <p>13 A Well, I read one of his reports. I</p> <p>14 don't know if he got paid for it. But, unless he</p> <p>15 donated his time, he may be just an expert, but,</p> <p>16 you know, I don't know the details of his</p> <p>17 finances.</p> <p>18 Q Okay. And you are also a paid expert</p> <p>19 in this litigation, correct?</p> <p>20 A Correct.</p> <p>21 Q So do you feel or do you have an</p> <p>22 opinion that your opinion should be disregarded,</p> <p>23 because you are a paid expert?</p> <p>24 MS. LEHMAN: Object to the form.</p>	<p style="text-align: right;">Page 133</p> <p>1 every expert who has been paid by any entity and</p> <p>2 factor that in.</p> <p>3 I'm not saying to discount it or say</p> <p>4 that it's not true, but they should be aware of it</p> <p>5 and factor it into their judgment.</p> <p>6 Q And do you have knowledge as to</p> <p>7 whether, at the time that these experts -- excuse</p> <p>8 me, whether at the time Dr. Rothman and Dr. Harlow</p> <p>9 wrote their letter to the editor that they were in</p> <p>10 fact retained as experts in this litigation?</p> <p>11 A So, their statement is very vague. It</p> <p>12 only refers to Dr. Harlow here, not Dr. Rothman.</p> <p>13 I don't know where he was in the</p> <p>14 sequence of becoming an expert for the plaintiffs;</p> <p>15 but, and this is a vague statement that doesn't</p> <p>16 tell me enough about what Dr. Harlow's role as a</p> <p>17 consultant was.</p> <p>18 Q Okay. So, what you testified to in</p> <p>19 your report -- and just a few minutes ago -- with</p> <p>20 regard to taking into consideration whether</p> <p>21 someone is a paid expert or not, that would not be</p> <p>22 a consideration, if, in fact, at the time the</p> <p>23 letter to the editors were written, neither</p> <p>24 Dr. Harlow or Dr. Rothman were paid experts,</p>

<p style="text-align: right;">Page 134</p> <p>1 correct?</p> <p>2 MS. LEHMAN: Object to the form.</p> <p>3 A Well, not necessarily, but -- not</p> <p>4 necessarily.</p> <p>5 Q No. Okay, that's the answer.</p> <p>6 A Okay. Thank you.</p> <p>7 Q Okay. Let's see what they have to</p> <p>8 say. And you've indicated that you've read this</p> <p>9 before, so we can move through it pretty quickly.</p> <p>10 Dr. Rothman and Dr. Harlow</p> <p>11 specifically criticize the O'Brien authors for</p> <p>12 concluding that there was not a statistically</p> <p>13 significant association -- based on the fact that</p> <p>14 the hazard ratio for ever-never use of Talcum</p> <p>15 Powder use in the genital area caused ovarian</p> <p>16 cancer of 1.08, with a confidence interval of .99,</p> <p>17 1.17, and suggested that this viewpoint is poor</p> <p>18 practice in population and clinical research.</p> <p>19 Did you see where the authors wrote</p> <p>20 that?</p> <p>21 A Yeah, and they are wrong, but I read</p> <p>22 that.</p> <p>23 Q Okay. So, Dr. Rothman and Dr. Harlow,</p> <p>24 you disagree with their opinions?</p>	<p style="text-align: right;">Page 136</p> <p>1 and so I don't think I should have to re-answer</p> <p>2 that same question.</p> <p>3 Q You don't. And the only reason I ask</p> <p>4 you is because you inferred, Dr. Diette, that</p> <p>5 there were only three people out there that might</p> <p>6 ascribe to such a theory.</p> <p>7 A I didn't. I said, "these three</p> <p>8 people." That's what a letter to the editor is,</p> <p>9 right? This is not consensus statement. This is</p> <p>10 not, you know, a guideline.</p> <p>11 This is three people who took the time</p> <p>12 to write an unsolicited letter to the editor, that</p> <p>13 wasn't peer reviewed, and respects their opinions.</p> <p>14 That's what it is.</p> <p>15 Q I just wanted to make sure the record</p> <p>16 reflected the fact that these weren't the only</p> <p>17 three epidemiologists and scientists and</p> <p>18 biostatisticians that had taken that opinion,</p> <p>19 correct.</p> <p>20 You don't know that, do you?</p> <p>21 A I think whatever I said in 2019 --</p> <p>22 when you asked me the same question -- I still</p> <p>23 stand by.</p> <p>24 Q Okay, fair enough. You are not a</p>
<p style="text-align: right;">Page 135</p> <p>1 A Oh, completely.</p> <p>2 Q Okay.</p> <p>3 A In fact, the journals require that,</p> <p>4 right? It's not up to Drs. Harlow or Rothman</p> <p>5 whether people do this?</p> <p>6 You know, this is a couple of people,</p> <p>7 three, in fact, that have an opinion on this</p> <p>8 matter. But it's not possible to publish this</p> <p>9 without such a statement, and literally presenting</p> <p>10 the facts of what the actual, not the hypothetical</p> <p>11 but the actual confidence interval is.</p> <p>12 THE REPORTER: The what?</p> <p>13 A The actual, and not the hypothetical</p> <p>14 confidence interval is.</p> <p>15 Q You're aware that Doctor Harlow,</p> <p>16 Murray and Dr. Rothman, you indicated that, just</p> <p>17 because those three -- you're aware that the</p> <p>18 Statistical Society and Association have taken a</p> <p>19 similar view of Dr. Rothman and Dr. Harlow and</p> <p>20 Dr. Murray that -- suggesting that statistical</p> <p>21 significance is required is poor practice in the</p> <p>22 field of statistics, correct?</p> <p>23 A So, I'm going to point out that you</p> <p>24 and I had this conversation extensively in 2019,</p>	<p style="text-align: right;">Page 137</p> <p>1 statistician?</p> <p>2 A Biostats is part of my profession, but</p> <p>3 I'm not labeled as a biostatistician.</p> <p>4 Q Okay. Do you agree with Dr. Rothman,</p> <p>5 Dr. Harlow and Dr. Murray when they state that,</p> <p>6 "given the 1.3 or 13 percent increase of risk of</p> <p>7 ovarian cancer, among women with intact genital</p> <p>8 tracts, that this should be taken as evidence of</p> <p>9 an effect?"</p> <p>10 A I disagree.</p> <p>11 Q Okay.</p> <p>12 A You don't want to know why, right?</p> <p>13 Q No.</p> <p>14 A Okay.</p> <p>15 Q I do want to know if you disagree.</p> <p>16 A Okay. I know. I'm sorry.</p> <p>17 Q That's important. I want to know</p> <p>18 whether you agree or disagree.</p> <p>19 A I have so much to say, and I know it's</p> <p>20 not the place.</p> <p>21 Q I know, and we just don't have the</p> <p>22 time.</p> <p>23 A I know. I get it. Sorry.</p> <p>24 Q No, no, no. We're doing fine, and I</p>



<p style="text-align: right;">Page 138</p> <p>1 appreciate it.</p> <p>2 Let me show you or refer your</p> <p>3 attention to the second part of that letters to</p> <p>4 the editors. There's a reply section. Do you see</p> <p>5 that?</p> <p>6 A Yes.</p> <p>7 Q Okay. And it starts in that JAMA</p> <p>8 article on page 2096. Do you see that?</p> <p>9 A I do.</p> <p>10 Q Okay. Now, let me represent, for</p> <p>11 purposes of the record, that Dr. O'Brien -- who is</p> <p>12 one of the authors of the O'Brien 2020 study that</p> <p>13 we've been talking about -- she replies to the</p> <p>14 letters of the editor, written by Drs. Harlow,</p> <p>15 Rothman and Murray.</p> <p>16 A That's correct.</p> <p>17 Q Do you understand that?</p> <p>18 A That's correct.</p> <p>19 Q Okay. Now, I didn't see in your</p> <p>20 report or your reference, or, excuse me, I didn't</p> <p>21 see in your references where you cited to these</p> <p>22 letters to the editor or the reply. Was that just</p> <p>23 an omission?</p> <p>24 You mentioned it in your report, but</p>	<p style="text-align: right;">Page 140</p> <p>1 Q Okay. I get that. I hear what you</p> <p>2 are saying.</p> <p>3 So, the letter to the editor for</p> <p>4 Harlow and Rothman and Murray found its way into</p> <p>5 the materials considered but did not find its way</p> <p>6 in the reference material, fair?</p> <p>7 A If that's what you saw, I believe</p> <p>8 that.</p> <p>9 Q But Dr. Gossett's editorial in JAMA of</p> <p>10 2020, which you state in your report, gave you</p> <p>11 great assurance that the O'Brien findings showed</p> <p>12 no increase with ever-never use, did find its way</p> <p>13 into your reference section, correct?</p> <p>14 A Sure. It's an invited editorial that</p> <p>15 is peer reviewed by the editor of the journal.</p> <p>16 Q So would I be understanding your</p> <p>17 testimony that you give less credence to the</p> <p>18 Harlow, Rothman critique of the O'Brien 2020 than</p> <p>19 you do to the Gossett 2020 editorial?</p> <p>20 A Oh, a hundred percent. It doesn't</p> <p>21 mean that one is automatically right or wrong,</p> <p>22 right? You still have to read the content.</p> <p>23 But you have to understand where these</p> <p>24 things come from. Anybody who wants to can write</p>
<p style="text-align: right;">Page 139</p> <p>1 you didn't put it in your references. Is that</p> <p>2 just an omission?</p> <p>3 A I think it might be in materials</p> <p>4 considered, which isn't necessarily the same as</p> <p>5 the list of references that's attached to the</p> <p>6 report.</p> <p>7 Q Fair enough. Okay. Now, you did</p> <p>8 attach to your report -- in your reference section</p> <p>9 of your report -- the Gossett editorial, correct?</p> <p>10 A I -- I believe so. I would have to</p> <p>11 look at it to be sure.</p> <p>12 Q We can take the time to go through</p> <p>13 that, if you would like.</p> <p>14 A Well, I know --</p> <p>15 Q Do you want to take my representation?</p> <p>16 I've looked at your report, and I've seen Gossett</p> <p>17 mentioned in your reference section.</p> <p>18 A I believe that.</p> <p>19 Q I've looked at your report in the</p> <p>20 reference section, and what I didn't see was the</p> <p>21 letter to the editor by Harlow, Rothman and Murray</p> <p>22 and Dr. O'Brien.</p> <p>23 A Yeah, I think that you will have to</p> <p>24 look at the materials considered to find that.</p>	<p style="text-align: right;">Page 141</p> <p>1 a letter to the editor.</p> <p>2 The editor doesn't invite them. If</p> <p>3 they find them curious enough to publish them,</p> <p>4 they publish them. They ask the authors of the</p> <p>5 original paper to reply to it, and that's what it</p> <p>6 is.</p> <p>7 An editorial is an "invited by the</p> <p>8 editor" exercise. There is a lot more rigor that</p> <p>9 goes into it, and that also gets reviewed by the</p> <p>10 editor and sometimes also by additional peer</p> <p>11 reviewers. So it's a completely different type of</p> <p>12 publication.</p> <p>13 Q Now, do you understand that</p> <p>14 Dr. Gossett acknowledged, in her conflicts of</p> <p>15 interest, that she works as a paid expert for</p> <p>16 another pharmaceutical company, Bayer.</p> <p>17 Did you see that?</p> <p>18 A I did at the time. I don't recall if</p> <p>19 it was Bayer, but I believe you.</p> <p>20 Q Now, taking you back to the reply by</p> <p>21 Dr. O'Brien to the editorial, I want to direct</p> <p>22 your attention to that, on page 2096. Okay?</p> <p>23 A Yes.</p> <p>24 Q All right. Let's look and see what</p>

<p style="text-align: right;">Page 142</p> <p>1 those authors have to say about -- how the author 2 of the paper, Dr. O'Brien, what she had to say 3 about her own paper, all right? 4 Let's go to the second page, which is 5 now 2097, and the first full paragraph. Are you 6 with me? 7 A Oh, I am, yes. 8 Q Okay. Dr. O'Brien -- who authored the 9 O'Brien 2020 paper -- responded to Dr. Harlow and 10 Doctor -- and his colleagues, and stated, we, and 11 I'll substitute, the O'Brien authors, completely 12 agree with Dr. Harlow and colleagues that our 13 results -- particularly the analysis limited to 14 women with intact reproductive tracts -- should 15 not be discounted because of the lack of 16 statistical significance. 17 For all estimates, we reported a 18 95 percent confidence interval, so readers could 19 consider effect, size and precision. 20 The qualifier -- that there was no 21 statistically significant association between ever 22 genital powder use and ovarian cancer -- is a 23 factual report of a test of no hypothesis. 24 We, O'Brien and colleagues, never</p>	<p style="text-align: right;">Page 144</p> <p>1 We talked about that particular 2 number. It's a positive number, and so I think 3 we're in agreement. 4 Q All right. So, I just want to get it 5 clear. This is one of my chances to speak to you. 6 You agree with Dr. O'Brien and her 7 colleagues that the lack of statistical 8 significance does not equate to no association. 9 You agree to that statement? 10 MS. LEHMAN: Object to the form. 11 Asked and answered. 12 Q Yes or no? 13 A For this particular finding, that's 14 right. 15 Q Okay. So you, also -- even though a 16 study may not demonstrate statistical 17 significance -- you, Dr. Diette, agree that that 18 should be interpreted as evidence of some 19 association? I just want to understand this. 20 (Overlapping speakers.) 21 MS. LEHMAN: You know, I just object 22 to this. 23 MS. PARFITT: Objection is all we do. 24 MS. LEHMAN: No.</p>
<p style="text-align: right;">Page 143</p> <p>1 equated the lack of statistical significance to 2 evidence of no association. 3 Did I read that correctly? 4 A Yes. 5 Q Dr. O'Brien and her colleagues 6 disagree with you, Dr. Diette, that the lack of 7 statistical significance does not equate to 8 evidence of a known association, correct? 9 A They don't disagree with me. I mean, 10 you read the whole paragraph, right? 11 Q I did. 12 A So, there's a lot here, right. 13 Q Right. 14 A One of them is they are stating, 15 appropriately, that they accurately reported that 16 there was no statistically significant 17 association, which I think is right. 18 And they say it's a factual test, 19 factual report of a test with a known hypothesis, 20 so we're in agreement with that. 21 And they say they didn't equate the 22 lack of statistical significance to evidence of no 23 association, and, you know, I agree with that, 24 too.</p>	<p style="text-align: right;">Page 145</p> <p>1 MS. PARFITT: That's all we do. 2 MS. LEHMAN: No, counsel -- 3 MS. PARFITT: Thank you. 4 MS. LEHMAN: -- I am going to object 5 because the scope of this deposition is very 6 limited. 7 So, I have allowed you great latitude 8 but this idea of like general wandering 9 discussions of epidemiological principles -- 10 MS. PARFITT: Okay. 11 MS. LEHMAN: -- is beyond the scope of 12 this deposition. 13 MS. PARFITT: Kate, we are talking 14 about a letter to the editor. 15 MS. LEHMAN: I understand. 16 MS. PARFITT: Let me finish. It was 17 published in 2020. I'm asking him specifically 18 about that letter to the editor. 19 MS. LEHMAN: No, you were, until this 20 last question. 21 MS. PARFITT: Right now I'm reading -- 22 Look at the letter to the editor, and let's just 23 focus on the letter to the editor that was done 24 post 2019, and it's dated 2020 in the JAMA</p>

<p style="text-align: right;">Page 146</p> <p>1 article.</p> <p>2 A Okay.</p> <p>3 Q My question, Dr. Diette, is,</p> <p>4 Dr. O'Brien -- who wrote and authored and</p> <p>5 investigated the O'Brien 2020, wrote to</p> <p>6 Drs. Harlow and Dr. Rothman the following --</p> <p>7 "I agree with what you all have to</p> <p>8 say; and, further, the test of null hypothesis, we</p> <p>9 never equated the lack of statistical significance</p> <p>10 to evidence of no association."</p> <p>11 Do you agree or disagree with that</p> <p>12 statement by the authors of the O'Brien 2020?</p> <p>13 MS. LEHMAN: Object to the form.</p> <p>14 Asked and answered.</p> <p>15 A Since they say, "we never equated with</p> <p>16 it," I can't disagree because they are speaking</p> <p>17 for themselves.</p> <p>18 Q Do you agree with their opinion that</p> <p>19 the lack of statistical significance to</p> <p>20 evidence -- that the lack of statistical evidence</p> <p>21 is not evidence of no association? Yes or no?</p> <p>22 A It's not a yes or no. The context for</p> <p>23 this is, they have done an exploratory analysis,</p> <p>24 which is not their main result.</p>	<p style="text-align: right;">Page 148</p> <p>1 this. You are very, very good, but just try to</p> <p>2 stay with my question.</p> <p>3 Your counsel is very talented. She</p> <p>4 can bring you back on any of these.</p> <p>5 My question is very specific.</p> <p>6 Dr. O'Brien and her colleagues stated, in a</p> <p>7 response to Dr. Harlow and Dr. Rothman, the</p> <p>8 following:</p> <p>9 "It is our opinion, as authors of a</p> <p>10 peer-reviewed O'Brien 2020, that the lack of</p> <p>11 statistical significance, in our ever-never</p> <p>12 conclusions. Is not evidence of no association."</p> <p>13 Do you agree with that or you don't</p> <p>14 agree with that?</p> <p>15 MS. LEHMAN: Objection. Asked and</p> <p>16 answered.</p> <p>17 A So, I think you are making something</p> <p>18 up because, when you asked it originally, you were</p> <p>19 talking about in this peer-reviewed publication.</p> <p>20 This is not a peer-reviewed</p> <p>21 publication. This is a letter to the editor.</p> <p>22 Q Okay, Doctor, let's try it one more</p> <p>23 time.</p> <p>24 Did Dr. O'Brien -- who did author and</p>
<p style="text-align: right;">Page 147</p> <p>1 In this context, it sets up a nice</p> <p>2 opportunity for somebody to take this finding and</p> <p>3 to do a proper study to test the hypothesis.</p> <p>4 So I think it is what it is. It's a</p> <p>5 secondary analysis where they had a particular</p> <p>6 finding.</p> <p>7 And this statement, I think these are</p> <p>8 facts, right? There is a fact that there was no</p> <p>9 statistical significance, and there is a fact that</p> <p>10 they never equated it with a lack of association.</p> <p>11 Q Right. And that's their opinion -- as</p> <p>12 authors of this study that was peer reviewed --</p> <p>13 that they do not equate the lack of statistical</p> <p>14 significance as evidence of no association? Yes</p> <p>15 or no, Dr. Diette? That's all I'm asking.</p> <p>16 MS. LEHMAN: Objection. Asked and</p> <p>17 answered.</p> <p>18 A So, I can't --</p> <p>19 Q You can't say that you agree or</p> <p>20 disagree?</p> <p>21 A Your question mixes things up.</p> <p>22 Q No, Dr. Diette, I'll make it really</p> <p>23 clear, and we need to move forward.</p> <p>24 Listen, you are very, very good at</p>	<p style="text-align: right;">Page 149</p> <p>1 publish a peer-reviewed publication, O'Brien 2020,</p> <p>2 she states -- in response to Drs. Harlow and</p> <p>3 Rothman's question, that it was important for her</p> <p>4 to clarify the following.</p> <p>5 "We never equated the lack of</p> <p>6 statistical significance to -- as evidence of no</p> <p>7 association."</p> <p>8 My question to you is, do you agree or</p> <p>9 disagree with this statement by Drs. O'Brien and</p> <p>10 colleagues to that?</p> <p>11 MS. LEHMAN: Object to the form.</p> <p>12 A So I'm going to answer you in one</p> <p>13 second.</p> <p>14 Q Let's go off the record.</p> <p>15 MS. LEHMAN: No, no, no, no. We are</p> <p>16 staying on the record.</p> <p>17 (Overlapping speakers.)</p> <p>18 MS. PARFITT: I asked him --</p> <p>19 MS. LEHMAN: You asked him a question.</p> <p>20 He needs to look at something.</p> <p>21 MS. PARFITT: -- whether he agreed or</p> <p>22 disagreed with a statement. That is what it is.</p> <p>23 Let the record reflect that I asked</p> <p>24 the question whether or not Dr. Diette agreed or</p>

<p style="text-align: right;">Page 150</p> <p>1 disagreed with a statement in a letter to the 2 editor by the authors of the O'Brien 2020, and he 3 has to consult the literature to tell me whether 4 or not he agrees or disagrees with that statement. 5 That's the time that we've been using. 6 A So I heard a little bit different 7 question, though. 8 Q I've asked it four times, Dr. Diette. 9 I can't really get much clearer, and I apologize 10 for that, because I would like to move on from 11 this, too. 12 A It's not clear to me, and I've tried 13 very hard to answer all of your questions as 14 simply as I can. 15 Q Let's answer this one. 16 MS. LEHMAN: Then let him answer. 17 MS. PARFITT: Dr. Diette, I don't have 18 time -- this is gamesmanship. 19 I will tell you. Listen, I respect 20 you as a scientist. I have limited time, and I 21 just want an answer to the question. 22 If it's, "I don't know," that's fine. 23 If it's, yes, that is fine. 24 A At this point, you are insulting me.</p>	<p style="text-align: right;">Page 152</p> <p>1 MS. PARFITT: All right. Well, then, 2 Dr. Diette, I apologize. 3 MS. LEHMAN: If you will, just let him 4 answer. 5 MS. PARFITT: I don't mean to insult 6 you. 7 I've been trying, Kate, and I think 8 the record will reflect that, and I think the 9 court will reflect that -- note that. 10 My question is this. I think, I'm 11 really not here, I'm really not here to quarrel 12 with you, despite what it may sound like. I just 13 want to know what you are going to say and what 14 you aren't going to say. 15 My question is simple. What I just 16 want to know is whether or not you agree with 17 O'Brien and colleagues that they never equated the 18 lack of statistical significance to evidence of no 19 association? 20 A I agree that that's what they stated. 21 Q Okay. Do you agree with the fact that 22 the lack of statistical significance should not be 23 considered evidence of association? 24 A I think, when you have a very weak</p>
<p style="text-align: right;">Page 151</p> <p>1 Q No, I am not. No, no, no. 2 A Yes, you are. That's an insult. 3 Q No, no. Let the record reflect that 4 it is not. 5 A That's an insult, and I'm not playing 6 games here. I'm literally trying to answer your 7 questions as best I can. 8 Q Can I ask you this? If I said to you, 9 the sky -- the earth was square, do you agree or 10 disagree? What would you tell me? 11 A That's an opinion. 12 Q What is your opinion? Is the earth 13 square or round? 14 A I don't think it is square. 15 MS. LEHMAN: I object to this entire 16 line of questioning. I also object to the tone 17 and the volume of the voice. 18 MS. PARFITT: They need to hear me, 19 which is why I've had to be louder than I usually 20 am, Kate, anyway. 21 MS. LEHMAN: No, your tone right 22 now -- the volume while you were asking those 23 questions about the earth -- was quite different. 24 I object to that.</p>	<p style="text-align: right;">Page 153</p> <p>1 association, and it's proximally null, I think 2 that should be very important in the 3 consideration. 4 Q I'm trying to unpack that one a little 5 bit. So are you requiring statistical 6 significance to be equated with evidence of an 7 association, or is it your opinion that 8 statistical significance is not required to 9 establish evidence of an association? 10 MS. LEHMAN: Objection. Asked and 11 answered. 12 A Okay. I think, if you have a relative 13 risk that's approximately one -- and it's not 14 statistically significant -- I don't think people 15 should twist that into saying that's evidence of a 16 positive association. 17 Q All right. 18 A Any more than I think that a .99 19 should be, you know, interpreted automatically as 20 a protective effect of something, when it's not 21 statistically significant. 22 Q Okay. Further down, the authors -- 23 and it's in the next paragraph -- 24 Dr. O'Brien states, we agree -- we</p>

<p style="text-align: right;">Page 154</p> <p>1 will start with, we agree, and I inserted "we"</p> <p>2 agree that the positive association among women</p> <p>3 with patent reproductive tracts, HR of 1.13 with a</p> <p>4 confidence interval of 1.01 to 1.26, is consistent</p> <p>5 with the hypothesis that there is an association</p> <p>6 between genital powder use and ovarian cancer."</p> <p>7 Did I read that correctly?</p> <p>8 A You did.</p> <p>9 Q Okay. Do you agree with that</p> <p>10 statement?</p> <p>11 A I do.</p> <p>12 Q Okay. And the next statement is, we</p> <p>13 agree -- that is O'Brien, et al -- with Harlow and</p> <p>14 colleagues, that methodological limitations, such</p> <p>15 as non-differential exposure misclassification,</p> <p>16 selection bias and misspecified confounders could</p> <p>17 bias the results, and we acknowledge many of these</p> <p>18 in our article.</p> <p>19 Did I read that correctly?</p> <p>20 A Yes.</p> <p>21 Q All right. Do you agree with the</p> <p>22 authors there?</p> <p>23 A They did acknowledge those.</p> <p>24 Q Okay. Do you agree, at the top of the</p>	<p style="text-align: right;">Page 156</p> <p>1 MR. TISI: 20.</p> <p>2 Q -- Exhibit 20. Okay.</p> <p>3 (Diette Exhibit 20 was marked for</p> <p>4 purposes of identification.)</p> <p>5 Q I'll get you a copy of that.</p> <p>6 Dr. Diette, I think that you may have that one as</p> <p>7 well.</p> <p>8 A I didn't bring that one.</p> <p>9 Q Okay. No worries.</p> <p>10 A Thank you.</p> <p>11 MR. TISI: You are welcome.</p> <p>12 Q All right. Have you got that in front</p> <p>13 of you?</p> <p>14 A And this is the cervical cancer one?</p> <p>15 Q Yes, it is.</p> <p>16 A Yes. I do have that one.</p> <p>17 Q Okay. Again, these are the same</p> <p>18 authors that participated in the Sister Study</p> <p>19 participated in the O'Brien 2020, and now they</p> <p>20 look at the issue of douching, genital talc use</p> <p>21 and the risk of prevalent and incidental cervical</p> <p>22 cancers.</p> <p>23 A I'm sorry, and the use of?</p> <p>24 Q I'm sorry. The use, talc use and the</p>
<p style="text-align: right;">Page 155</p> <p>1 page of 2097, the following: "If cohort studies,</p> <p>2 pooled HR, of 1.08 are likely biased towards the</p> <p>3 null and case control studies meta-analysis OR</p> <p>4 1.35 are likely biased away from the null, the</p> <p>5 true association may lay somewhere in the middle."</p> <p>6 Do you agree with the authors with</p> <p>7 regard to that opinion?</p> <p>8 A I can't disagree with the word, "may,"</p> <p>9 because it may or may not, so, you know, may is</p> <p>10 included in the list of possibilities that are</p> <p>11 true.</p> <p>12 THE REPORTER: The possibilities that</p> <p>13 are what?</p> <p>14 A That are true.</p> <p>15 Q Okay. Thank you. Let's sit that</p> <p>16 aside for a moment, and let's go to the next</p> <p>17 study.</p> <p>18 And it is a study done in 2021, and</p> <p>19 it's entitled -- again, by the O'Brien, Sandler</p> <p>20 authors -- "the Association Between Douching and</p> <p>21 Genital Talc Use and the Risk of Prevalent and</p> <p>22 Incident Cervical Cancer," and it was published,</p> <p>23 I'll represent in the Journal of Nature, and I</p> <p>24 believe we are up to --</p>	<p style="text-align: right;">Page 157</p> <p>1 risk of prevalent and incidental cervical cancers.</p> <p>2 Now, you have this study on your</p> <p>3 reference list, correct?</p> <p>4 A I'm sorry. I thought that you were</p> <p>5 just making a statement.</p> <p>6 Q No, no.</p> <p>7 A Yes.</p> <p>8 Q Did you address this study as well in</p> <p>9 your report of 2024?</p> <p>10 A I don't recall.</p> <p>11 Q This is one of the first papers by the</p> <p>12 NIEHS that follows the O'Brien 2020 to look at the</p> <p>13 association between genital talc use and cervical</p> <p>14 cancer?</p> <p>15 A Correct.</p> <p>16 Q And you've read it before?</p> <p>17 A Oh, yeah.</p> <p>18 Q Yeah, okay. Would you agree with me</p> <p>19 that the study authors found that there was no</p> <p>20 evidence of an association between cervical cancer</p> <p>21 and the use of Talcum Powder products?</p> <p>22 A I don't think they were able to</p> <p>23 conclude that there was.</p> <p>24 They said, "we did not see evidence of</p>



<p style="text-align: right;">Page 158</p> <p>1 an association," but they also reported a hazard  2 ratio that was more than one but without  3 statistical significance.  4 Q Okay. So let me direct your  5 attention -- thank for you that.  6 Let me direct your attention to the  7 next page, page 2, first full paragraph. Do you  8 see that?  9 A Yes.  10 Q Okay. And they start with, "talc  11 applied to underwear, sanitary napkins, diaphragms  12 or directly to the peroneal region can enter the  13 vagina and travel up the reproductive tract."  14 Do you agree or disagree with that  15 statement?  16 A I'm not seeing that.  17 Q I'm sorry. Dr. Diette, right here,  18 (indicating.) It starts with, in previous  19 studies, and it's about three fourths of the way  20 down.  21 Do you want me to help you? I don't  22 want to lean over you.  23 A That's okay, but I don't know if I'm  24 seeing it.</p>	<p style="text-align: right;">Page 160</p> <p>1 A Yes.  2 Q Okay. The epidemiological literature  3 supports a positive -- possible positive  4 association between genital talc use and ovarian  5 cancer.  6 Did I read that correctly?  7 A Yes.  8 Q If you turn to the back of the  9 reference section of 34 and 35, you will see at 35  10 that the author of the statement, "that the  11 epidemiological literature supports a possible  12 positive association between genital talc use and  13 ovarian cancer." You'll see O'Brien 2020.  14 Do you see that?  15 A I do.  16 Q Okay. So, in the cervical paper by  17 O'Brien, et al., Dr. O'Brien and her colleagues  18 publish the results of their O'Brien 2020 and  19 characterize it as literature that supports a  20 possible positive association between genital talc  21 use and ovarian cancer, correct?  22 A That's right.  23 Q Let me show you what we will have  24 marked now as Exhibit Number 21.</p>
<p style="text-align: right;">Page 159</p> <p>1 Q No worries.  2 A Oh, it's this paragraph here.  3 Q You've got it. Right there.  4 A Thank you very much.  5 Q Of course. Of course. Okay.  6 The question was, again, "talc applied  7 to underwear, sanitary napkins, diaphragms or  8 directly to the peroneal region can enter the  9 vagina and travel up the reproductive tract."  10 Do you agree with that?  11 A I don't know that that's established,  12 although I will say that, if it's applied to a  13 diaphragm, by definition, it would be, you know,  14 entering the vagina deliberately. But, for the  15 others, I'm not sure that's has been established.  16 Q "Talc particles may act as irritants  17 inciting an inflammatory response and potentially  18 affect the individual's accessibility and response  19 to HPV infection."  20 "Additional or more severe adverse  21 effects could occur if the talc contained  22 asbestos, a known carcinogen, sometimes mined in  23 the same locations as talc."  24 Did I read that correctly?</p>	<p style="text-align: right;">Page 161</p> <p>1 While Mr. Tisi is looking for that,  2 let me have marked --  3 MR. TISI: I will mark it.  4 Q You don't have to mark it.  5 MR. TISI: This one is 20 that you  6 just handed me.  7 Q 21 then. Thank you. All right.  8 (Diette Exhibit 21 was marked for  9 purposes of identification.)  10 Q All right. Doctor, the article is  11 described as Cohort Profile, the Ovarian Cancer  12 Cohort Consortium 0C3, and it was published in the  13 International Journal of Epidemiology on 2022.  14 A Thank you.  15 Q Dr. Diette, I've shown you what's been  16 marked as 21, Exhibit 21, and we will refer to it  17 as the Townsend article.  18 Have you seen this before?  19 A I have.  20 Q Okay. I note, from review of your  21 report, that you do not address this in your 2024  22 report, correct?  23 A I believe that's right.  24 Q All right. I also note, from a review</p>

<p style="text-align: right;">Page 162</p> <p>1 of the references to your report, that you do not 2 cite Townsend 2022 as a reference for your work 3 and opinions that Talcum Powder can't -- is not 4 associated with ovarian cancer, correct? 5 A Let's see. That's correct. 6 Q Okay. Now, the International Journal 7 of Epidemiology, Cohort Profile, currently 8 represents about 1.3 million women, where there 9 have been cases identified around the world 10 involving ovarian cancer. 11 I believe they started their 12 enrollment in about 1976. Did you see that when 13 you read it? 14 A Yes. 15 Q Okay. Now, Drs. O'Brien, Sandler and 16 Wentzensen, again, once again, are contributors to 17 this paper. 18 In addition, frankly, to some others 19 like Dr. Langseth, I think you've seen the 20 Langseth articles in the past, correct? 21 A I have. 22 Q And you've seen the Merritt articles 23 in the past? 24 A Yes.</p>	<p style="text-align: right;">Page 164</p> <p>1 record. 2 MR. TISI: It seems to be the 3 conversion. I'll find it. I'm going to find it 4 for you. 5 MS. PARFITT: Yeah. You know what -- 6 MR. TISI: Just go to the next one. 7 Q Dr. Diette, for the moment, we will 8 substitute this. 9 It's a slightly different version than 10 the one I'm reading from. Can I look over your 11 shoulder and we share? 12 A Absolutely. 13 Q Okay. All right. For purposes of the 14 record -- and this will be the copy -- and we will 15 have to substitute it. 16 I'm referring to the Townsend article, 17 and the section that I wanted to refer to is on 18 page 13. 19 And it's a paragraph above what the 20 main strengths and weaknesses are, and it's under 21 the section -- I just want to show you, what has 22 been found, okay? 23 A Which is this? 24 Q It's the same thing. It's the</p>
<p style="text-align: right;">Page 163</p> <p>1 Q TwoRoger, you've seen her work? 2 A I don't recall that one. 3 Q Okay. How about Dr. Kala Visvanathan, 4 she's from the Department of Epidemiology at Johns 5 Hopkins. Do you know her? 6 A I do. 7 Q Okay. Do you practice with her? 8 A Only in a general sense. We are both 9 active clinicians, and we both work at Johns 10 Hopkins Hospital. 11 And she does some of her work in the 12 cancer center, as do I, but we are not like in the 13 clinic together or that sort of thing. 14 Q I see. Let me direct your 15 attention -- this is going to be more difficult. 16 It's page 13, and mine is 13, but, if 17 you'll give me a moment, I'm going to assume that 18 that was not -- 19 A Yeah. It's got E-something. 20 Q Let me take one minute and do a -- 21 We will just count, so you and I can 22 be on the same page, literally. How about that? 23 A Sure. 24 Q I just want to do this, for the</p>	<p style="text-align: right;">Page 165</p> <p>1 Townsend cohort -- 2 A This is, I just want to be clear this 3 is the description of the cohort, right, not the 4 findings? 5 Q Correct. It does include -- yes, 6 that's correct. 7 A Yes. I mean, it's not the report of 8 the findings, where they discuss the findings? 9 Q They discuss the findings and other 10 authors' findings. 11 A Yes. 12 Q If we go over to what has been found, 13 we go to this section here, right above what the 14 main strengths and weaknesses are. 15 And it says, "regarding genital powder 16 use, previous findings were primarily based on 17 case control studies that are at risk of recall 18 bias, and the few prospective studies were 19 underpowered to find weaker associations." 20 Did I read that correctly? 21 A Yes. 22 Q Do you agree or disagree with that? 23 A I think that, since the way this reads 24 is "few prospective studies," I think individually</p>

<p style="text-align: right;">Page 166</p> <p>1 they may have been underpowered.</p> <p>2 Q Okay. It then goes on to say, in the</p> <p>3 largest prospective study so far, the OC3 found a</p> <p>4 very small positive association between genital</p> <p>5 powder use and ovarian cancer risk among all</p> <p>6 women.</p> <p>7 And then they cited a hazard ratio of</p> <p>8 1.08, with a confidence interval of .99, 1.7, as</p> <p>9 well as among women with intact uterus and</p> <p>10 fallopian tubes, a hazard ratio of 1.13, with a</p> <p>11 confidence interval 1.01, 1.26.</p> <p>12 Now, if you go to the reference?</p> <p>13 A It's got to be O'Brien 2020.</p> <p>14 Q There you go.</p> <p>15 A Those are the same numbers.</p> <p>16 Q You are correct. Okay. All right.</p> <p>17 And it does, I'll represent to you, it does</p> <p>18 represent O'Brien 2020.</p> <p>19 A Yes. They recapitulated the numbers.</p> <p>20 Q Okay. So, in this particular</p> <p>21 publication of Townsend, the authors, which</p> <p>22 include O'Brien, Sandler and Wentzensen, published</p> <p>23 their findings of the O'Brien 2020 and described</p> <p>24 them as, a small positive association between</p>	<p style="text-align: right;">Page 168</p> <p>1 A Is this the one that describes like</p> <p>2 the STIC lesions?</p> <p>3 Q Yes.</p> <p>4 A Okay. Thank you.</p> <p>5 Q Good memory. Okay. I apologize. I</p> <p>6 got here and realized we didn't have four copies</p> <p>7 of everything. I've got four copies of things I</p> <p>8 don't need.</p> <p>9 And, counsel, if you will bear with</p> <p>10 me, and I'll get you another one as well, but this</p> <p>11 is the Visvanathan paper, okay?</p> <p>12 MR. TISI: You don't have an exhibit</p> <p>13 sticker with you?</p> <p>14 A No. There's nothing on here.</p> <p>15 MS. PARFITT: I'll just write on it.</p> <p>16 MR. TISI: I've got it, Michelle.</p> <p>17 Q Okay. Now, you indicated that you've</p> <p>18 not worked with Dr. Visvanathan, correct?</p> <p>19 A Not elbow to elbow, but she's in the</p> <p>20 department of epi, and she's also, you know, a</p> <p>21 clinician, so I mean I know of her. She's</p> <p>22 awesome.</p> <p>23 Q Sure.</p> <p>24 MS. LEHMAN: I'm sorry, I'm trying to</p>
<p style="text-align: right;">Page 167</p> <p>1 genital Talcum Powder and ovarian cancer, correct?</p> <p>2 A Correct.</p> <p>3 Q Okay. And that was in '22, two years</p> <p>4 later, when they were describing their paper?</p> <p>5 A Correct.</p> <p>6 THE REPORTER: When they were</p> <p>7 describing what?</p> <p>8 Q When they were describing their</p> <p>9 O'Brien 2020 paper. Now, I'm going to ask you</p> <p>10 about Dr. Visvanathan. Am I saying that</p> <p>11 correctly?</p> <p>12 A That's the way that I say it.</p> <p>13 Q Okay. I'm going to go with you. You</p> <p>14 know her. Right.</p> <p>15 Let me show you what I'll have marked</p> <p>16 now as Exhibit Number 22.</p> <p>17 (Diette Exhibit 22 was marked for</p> <p>18 purposes of identification.)</p> <p>19 Q And I'll represent to you that it is</p> <p>20 an article by Dr. Visvanathan entitled, "Fallopian</p> <p>21 Tube Lesions in Women at High Risk for Ovarian</p> <p>22 Cancer, a Multicenter Study."</p> <p>23 And it was published in Cancer</p> <p>24 Prevention Research sometime in 2018, okay?</p>	<p style="text-align: right;">Page 169</p> <p>1 find it on my article. I just wanted to look.</p> <p>2 Q I'm sorry, Kate. I apologize. I</p> <p>3 really did try to have copies for everybody.</p> <p>4 MS. LEHMAN: What's the date on that?</p> <p>5 Q It is 2022?</p> <p>6 A This says 2018 copyright.</p> <p>7 Q 2018. No, you are right. American</p> <p>8 Association for Cancer Research at the bottom.</p> <p>9 This is 2018.</p> <p>10 MS. LEHMAN: We are going to object to</p> <p>11 any questions about this study, since it was</p> <p>12 developed in 2018.</p> <p>13 Q Now, this is one of the authors in the</p> <p>14 2022 Townsend paper, and I want to direct your</p> <p>15 attention over to page 699.</p> <p>16 A Okay. Yeah.</p> <p>17 Q Under -- do you see that category,</p> <p>18 "epidemiological data?"</p> <p>19 A Yes.</p> <p>20 Q Okay. And I'll represent to you that</p> <p>21 this section discusses exposures, talc potential</p> <p>22 exposures, and they list -- I believe they call</p> <p>23 it -- D identified data was reviewed.</p> <p>24 And some of the variables that were</p>

<p style="text-align: right;">Page 170</p> <p>1 considered, for purposes of doing exposure tests, 2 were things like, Ashkenazi, Jewish ancestry, BRCA 3 family history, many of the risk factors for 4 ovarian cancer. Do you see that? 5 A I do. 6 MS. LEHMAN: I guess, counsel, perhaps 7 I wasn't clear. 8 Since this article was published 9 before the 2019 deposition -- in fact it looks 10 like it was published about a year before -- we 11 really shouldn't be talking about this. 12 (Overlapping speakers.) 13 MS. PARFITT: I'm asking one question. 14 She's an author that was referenced in the 2022, 15 so it's foundational. I'm just going to ask 16 one -- 17 MS. LEHMAN: Then ask -- 18 MS. PARFITT: -- question. You can 19 object. 20 MS. LEHMAN: Ask one foundational 21 question, but that will be the end -- 22 MS. PARFITT: I have no other -- 23 MS. LEHMAN: -- of the discussion. 24 MS. PARFITT: -- intention.</p>	<p style="text-align: right;">Page 172</p> <p>1 MR. TISI: Are you instructing him not 2 to answer? 3 MS. PARFITT: Objection. 4 MS. LEHMAN: I am instructing him not 5 to answer that question. I'm instructing him not 6 to answer about an article published in 2018. 7 MS. PARFITT: Counsel, I think at many 8 of the depositions we've unfortunately suffered 9 through countless questions. 10 I'm just being fair, Kate. It was 11 countless. I had one question. I sat through 12 countless questions. 13 MS. LEHMAN: We will take it to the 14 judge. I'm instructing him not to answer. 15 And so, you are not going to answer 16 that question, whether or not she published that 17 Talcum Powder was one of the variables and factors 18 considered. 19 A Okay. 20 MS. PARFITT: We will just note that 21 one for the record, if you will, Sue. I 22 appreciate it. Okay. Moving on. 23 A And I don't necessarily need a break 24 but I'm feeling a little under-caffeinated, and</p>
<p style="text-align: right;">Page 171</p> <p>1 MS. LEHMAN: Go ahead. 2 MS. PARFITT: Dr. Diette, does 3 Dr. Visvanathan state Talcum Powder as one of 4 those variables for exposures? 5 MS. LEHMAN: Excuse me, Doctor. 6 That's not -- 7 MS. PARFITT: You can answer. 8 MS. LEHMAN: That's not a foundational 9 question, and, no. 10 MS. PARFITT: Dr. Diette, in the paper 11 published by Dr. Visvanathan, does Dr. Visvanathan 12 indicate that Talcum Powder is one of the 13 variables for exposure considered, yes or no? 14 (Overlapping speakers.) 15 MS. LEHMAN: Counsel, that's not a -- 16 MS. PARFITT: Objection. 17 MS. LEHMAN: -- foundational -- 18 MS. PARFITT: Objection. 19 MS. LEHMAN: -- question. 20 MS. PARFITT: Objection. 21 MS. LEHMAN: I do object. 22 MS. PARFITT: Thank you. 23 MS. LEHMAN: That is not a 24 foundational question.</p>	<p style="text-align: right;">Page 173</p> <p>1 I'm hoping that the Starbucks people have decided 2 it's an appropriate time to open up. 3 MR. TISI: Would you like a cup of 4 coffee? I'm happy to go get it for you if that 5 makes it easier? 6 MS. PARFITT: He likes to stretch. 7 A What should we do? Just take a 8 minute. Five minutes, please. 9 (There was a break in the proceedings 10 at 12:47 p.m. and testimony resumed at 1:10 p.m.) 11 BY MS. PARFITT: 12 Q All right. Dr. Diette, again, after a 13 short break here, hopefully you are caffeinated 14 and ready to respond. Let's talk about 15 O'Brien 2024. 16 A Okay. 17 Q All right. Again, it's an Exhibit 18 previously marked as Number 5. Can we agree that 19 this is another study that was published by 20 Doctors O'Brien, Wentzensen and Sandler? 21 A Yes. 22 Q Okay. These are the same authors that 23 published 2020 O'Brien, which was one of the 24 largest cohort analyses that have been performed</p>

<p style="text-align: right;">Page 174</p> <p>1 to date, correct?</p> <p>2 A Correct.</p> <p>3 Q Again, with regard to the issues that</p> <p>4 we're speaking about today.</p> <p>5 A Of course, yes.</p> <p>6 Q Would you agree that this recent 2024</p> <p>7 publication, Exhibit 5, is a reanalysis of the</p> <p>8 initial Sisters Cohort Study that was published</p> <p>9 back in 2016 by, again, O'Brien and Sandler,</p> <p>10 referred to as the Gonzales study?</p> <p>11 A It includes reanalysis, but it also is</p> <p>12 an analysis of additional data, as you know.</p> <p>13 Q Exactly. That's a good clarification.</p> <p>14 We can agree on that?</p> <p>15 A Yes.</p> <p>16 Q Okay. And the objective of O'Brien</p> <p>17 and her colleagues at NIEHS, in conducting this</p> <p>18 2024, study was to reevaluate the association</p> <p>19 between intimate care products -- which included</p> <p>20 talcum powder -- it's use in the incidence of</p> <p>21 hormone-related cancer, which in this case,</p> <p>22 ovarian cancer; is that fair?</p> <p>23 A Yeah; ovarian, breast and uterine.</p> <p>24 Q That is exactly right. Okay. And</p>	<p style="text-align: right;">Page 176</p> <p>1 first time in a cohort study that investigators</p> <p>2 have looked at lifetime use?</p> <p>3 A With talc and ovarian?</p> <p>4 Q With talcum powder and ovarian cancer,</p> <p>5 correct?</p> <p>6 A This is the first one I've seen.</p> <p>7 Q Okay. Now, let me show you what I</p> <p>8 believe was previously marked as Exhibit Number --</p> <p>9 the Gonzales study, and it was marked earlier.</p> <p>10 And I think, can I --</p> <p>11 MR. TISI: I think it's Exhibit 18.</p> <p>12 MS. PARFITT: Now, the Gonzales</p> <p>13 article which is entitled, "Douching, Talc Use and</p> <p>14 Risk of Ovarian Cancer," it was published in</p> <p>15 Epidemiology in 2016, correct?</p> <p>16 A That's right.</p> <p>17 Q Again, I think we established that</p> <p>18 this is an article that you previously referenced</p> <p>19 in your reports, correct?</p> <p>20 A That's correct.</p> <p>21 Q Okay. Before we actually addressed</p> <p>22 some of your methodological concerns about</p> <p>23 O'Brien 2024, let's talk a little bit about how</p> <p>24 the O'Brien 2024, actually expands upon and</p>
<p style="text-align: right;">Page 175</p> <p>1 what these authors attempted to do was to expand</p> <p>2 on some of the previous analyses that were done</p> <p>3 for instance, by Gonzales, and incorporate newly</p> <p>4 diagnosed ovarian, uterine and breast cancers as</p> <p>5 outcomes?</p> <p>6 A Right. So they added additional --</p> <p>7 additional people with outcomes, to what they had</p> <p>8 from Gonzales.</p> <p>9 Q Okay.</p> <p>10 THE REPORTER: I'm sorry, they added</p> <p>11 additional people what?</p> <p>12 THE WITNESS: With cancers.</p> <p>13 (Reporter clarification.)</p> <p>14 Q Because, so the record is clear,</p> <p>15 because Gonzales wasn't looking at breast cancers</p> <p>16 and uterine cancers, correct?</p> <p>17 A Correct.</p> <p>18 Q Okay. And another thing that the</p> <p>19 authors did in the O'Brien 2024, is look at</p> <p>20 lifetime use of the product, correct?</p> <p>21 A They had -- they had an estimate of</p> <p>22 that, yes.</p> <p>23 Q And as to cohort studies looking at</p> <p>24 lifetime use, that's one of the -- this is the</p>	<p style="text-align: right;">Page 177</p> <p>1 improves some of the previous analysis done by</p> <p>2 Gonzales 2016, by creating more detailed exposure</p> <p>3 assessments, increasing the number of ovarian</p> <p>4 cancer cases and expanding the follow-up period.</p> <p>5 A That's correct.</p> <p>6 Q Okay. Now, can we agree that</p> <p>7 O'Brien 2024 contains data from the Gonzales 2016</p> <p>8 study?</p> <p>9 A Yes.</p> <p>10 Q Okay. And the original Sister Study</p> <p>11 enrolled about 50,884 women without breast cancer</p> <p>12 who were enrolled at the ages of 35 to 74 --</p> <p>13 between the period of time 2003 and 2009 -- and</p> <p>14 they had to have a sister who was previously</p> <p>15 diagnosed with breast cancer?</p> <p>16 A Yes. And you said 50,884?</p> <p>17 Q Yes.</p> <p>18 A Yes.</p> <p>19 Q So that's an accurate description,</p> <p>20 correct?</p> <p>21 A Yes, it is.</p> <p>22 Q Okay. And the first and the initial</p> <p>23 question there -- completed by the participants in</p> <p>24 the Sister Study -- focused on two very specific</p>



<p style="text-align: right;">Page 178</p> <p>1 time periods; the first being frequency of  2 exposure to genital talc use in the 12 months  3 before enrollment, and then exposure at 10 to  4 13 years of age; is that correct?  5 A Ten to 13.  6 Q Ten to 13?  7 A Ten to 13, yes. Yes, that's right.  8 Q Okay. And the frequency questions  9 that were asked of these women included the  10 following: never, sometimes or frequently used at  11 10 to 13; and whether they used never, less than  12 one time, one to three times a month, one to five  13 times a week or greater than five times a week in  14 the year before enrollment.  15 A That's right.  16 Q Does that sound right?  17 A Yes.  18 Q Okay. Now, under the initial  19 questionnaire that was provided to respondents, is  20 it fair to say that real users may have been  21 incorrectly characterized as nonusers, simply  22 because the questionnaire failed to capture  23 lifetime use?  24 A It's possible.</p>	<p style="text-align: right;">Page 180</p> <p>1 true a long time ago.  2 Q Okay. But the same question.  3 Additional data was collected in the Nurse's  4 Health Study, correct?  5 A Yeah. But those are repeated  6 measures, right?  7 Q Okay.  8 A This is different.  9 Q Okay.  10 A And I just want to be clear about  11 that, right? Like, repeated measures of time  12 varying exposure or outcomes is a norm in cohort  13 studies. They keep updating.  14 Like, for example, if it's a study  15 about do you eat oranges; do you eat oranges now,  16 do you eat them two years later, do you eat them  17 four years later? That's a typical way to update  18 a cohort study; not to wait 10 or 20 years and  19 say, "hey, by the way, did you eat oranges when  20 you were 8 years old?" That's different.  21 Q All right. Well, let's look at what  22 the O'Brien authors tried to do that hadn't been  23 done in the past.  24 So, what they did is they attempted to</p>
<p style="text-align: right;">Page 179</p> <p>1 Q So one of the objectives of  2 O'Brien 2024 was to try to drill down, so to  3 speak, on what the data looked like and what the  4 results looked like when you looked at lifetime  5 use of a product, correct, in this case talcum  6 powder?  7 A Right. That was one of their goals.  8 Q Okay. Now, there is nothing  9 unscientific or improper about collecting  10 additional data in cohort studies, correct?  11 A Well, it depends upon how you do it  12 right? I mean, to be fair, this is the first time  13 I've seen investigators try to go backwards in  14 time and try to recreate something that they could  15 have done, had they wanted to earlier.  16 And they could have done it at  17 multiple time points between when the study  18 originated and this particular time.  19 So, I wouldn't say there's nothing  20 wrong with it. I think that there's plenty wrong  21 with introducing what's one of the big problems  22 with case control studies -- into a cohort  23 study -- simply because you're hoping that now,  24 decades later, that people might remember what was</p>	<p style="text-align: right;">Page 181</p> <p>1 provide another questionnaire, an updated  2 questionnaire that would ask about lifetime use of  3 talcum powder, correct?  4 A Correct.  5 Q Okay. And your concern about the  6 authors gathering this additional information  7 about lifetime use was recall back -- is recall  8 bias, correct? That's one of your concerns?  9 A Recall at all, and then recall bias,  10 also.  11 Q Okay. So recall, et al., and recall  12 bias, okay?  13 A Yes, that's at all, not et al.  14 Q Yes. Yes, all right. So, that's one  15 of your criticisms. You're not -- you're not  16 critical of investigators broadening the database  17 of participants in any particular study, correct?  18 A Not as a general proposition, but not  19 like this.  20 Q All right. You would agree with me  21 that when a study is conducted -- that has a  22 longer follow-up time and expands the exposure  23 criteria -- that necessarily increases the number  24 of cases that might actually be detected in a</p>

<p style="text-align: right;">Page 182</p> <p>1 study, fair?</p> <p>2 A No, I don't think so. I don't think</p> <p>3 I'm disagreeing with what the study did. I</p> <p>4 just -- I think the way you asked it, I don't</p> <p>5 agree with that.</p> <p>6 Q Okay. Well, let me ask this. Do you</p> <p>7 agree that increased numbers of incident ovarian</p> <p>8 cancers -- and a longer follow-up period -- can</p> <p>9 improve exposure assessment?</p> <p>10 A No.</p> <p>11 Q No.</p> <p>12 A No. I mean, exposure is one thing and</p> <p>13 then you're talking about outcomes. You can</p> <p>14 collect more outcomes as time goes by, but that</p> <p>15 doesn't change what your exposure assessment is.</p> <p>16 Q Okay. Do you have any criticism of</p> <p>17 collecting more data and gathering more cases?</p> <p>18 A More cases is good.</p> <p>19 Q More cases is good?</p> <p>20 A Yes.</p> <p>21 Q Okay. And that adds to the study</p> <p>22 results' validity, correct?</p> <p>23 A Not to the validity, but it adds to</p> <p>24 the robustness of the findings they can have --</p>	<p style="text-align: right;">Page 184</p> <p>1 the authors undergoing peer review by the journal,</p> <p>2 the Journal of Clinical Oncology -- they also have</p> <p>3 to submit, as NIH researchers, their work to NIH</p> <p>4 for internal peer review?</p> <p>5 A I didn't see that here, but I've</p> <p>6 worked with NIH researchers and I know that that's</p> <p>7 the norm, is to get internal approval also.</p> <p>8 Q Okay. So it's kind of like double</p> <p>9 peer review?</p> <p>10 A Yeah. Well, I don't -- so, I'm saying</p> <p>11 this because I don't know. I don't know if it's</p> <p>12 always peer review in the traditional sense,</p> <p>13 versus looking for statements that like a</p> <p>14 particular NIH branch finds acceptable, which is a</p> <p>15 little bit different than the kind of peer review</p> <p>16 where it's critiquing like the methods and the</p> <p>17 results and so forth.</p> <p>18 Q Well, you don't know that NIH did not</p> <p>19 critique the methods of the authors?</p> <p>20 A I don't. I'm saying I don't know.</p> <p>21 Q Okay.</p> <p>22 A But I do know there is an internal</p> <p>23 review process.</p> <p>24 Q Okay. But we can agree that this</p>
<p style="text-align: right;">Page 183</p> <p>1 Q Sure.</p> <p>2 A -- because they now have more</p> <p>3 information about outcomes.</p> <p>4 Q Okay. That's fair. All right. And</p> <p>5 indeed in 2024, that's exactly what the authors</p> <p>6 did do. They were able to collect additional</p> <p>7 cases, incident cases?</p> <p>8 A Oh, absolutely.</p> <p>9 Q All right. And you'll agree that that</p> <p>10 did in fact make the data more robust, fair?</p> <p>11 A Oh, yeah. No. That was a -- it was a</p> <p>12 good thing.</p> <p>13 Q Okay. We don't disagree with that?</p> <p>14 A It was a good thing.</p> <p>15 Q Okay. All right. So, the O'Brien</p> <p>16 publication or the O'Brien study was published in</p> <p>17 the Journal of Clinical Oncology on May 15, 2024,</p> <p>18 right?</p> <p>19 A Yes.</p> <p>20 Q Take look at that. Okay. Now, the</p> <p>21 Journal of Clinical Oncology is a peer reviewed</p> <p>22 journal?</p> <p>23 A Yes.</p> <p>24 Q Are you aware that -- in addition to</p>	<p style="text-align: right;">Page 185</p> <p>1 particular paper, O'Brien 2024, was in fact</p> <p>2 reviewed by two different organizations? Not only</p> <p>3 The Journal of Oncology -- Clinical Oncology, but</p> <p>4 also NIH? I think we can establish that.</p> <p>5 A I think we can establish it just based</p> <p>6 on what I think is generally true. I don't know</p> <p>7 if I saw a statement here that said that it was</p> <p>8 reviewed, but I could have easily just glossed</p> <p>9 over it --</p> <p>10 Q Fair enough.</p> <p>11 A -- but I don't think I saw a statement</p> <p>12 that said it was internally reviewed.</p> <p>13 Q Fair enough. But you understand from</p> <p>14 your other work that you've done, that is the</p> <p>15 process?</p> <p>16 A I would expect it to have happened.</p> <p>17 Q Okay. The same thing for NCI, do they</p> <p>18 require that as well?</p> <p>19 A I've not done any work with them and I</p> <p>20 don't know what their practices are.</p> <p>21 Q Okay. Fair enough. You've never</p> <p>22 published anything in the Journal of Clinical</p> <p>23 Oncology, correct?</p> <p>24 A I don't think so.</p>

<p style="text-align: right;">Page 186</p> <p>1 Q Okay. How did you actually get -- we</p> <p>2 talked earlier on it -- it was a few hours ago --</p> <p>3 so let me just refresh my recollection.</p> <p>4 You think the attorneys for J&amp;J may</p> <p>5 have provided that to you, and then maybe shortly</p> <p>6 thereafter, or perhaps contemporaneous, you also</p> <p>7 pulled it up, correct?</p> <p>8 A That's right.</p> <p>9 Q Okay. Did you have any advanced</p> <p>10 notice that the O'Brien 2024 article was coming</p> <p>11 out, publication?</p> <p>12 A No.</p> <p>13 Q So it would be fair to say you did not</p> <p>14 have access to the journal, prior to its public</p> <p>15 release?</p> <p>16 A Oh, no. No, no, no.</p> <p>17 Q Okay. Now, the concerns -- and you</p> <p>18 used the word concerns in your report. It seems</p> <p>19 to be a word that you use?</p> <p>20 Do you have concerns generally about</p> <p>21 the methodology that was used in the O'Brien study</p> <p>22 analysis? We will start with that.</p> <p>23 A Sure, yeah.</p> <p>24 Q You do? All right. So you've got</p>	<p style="text-align: right;">Page 188</p> <p>1 it's -- there's only a little bit of time between</p> <p>2 when this was published and when I wrote my --</p> <p>3 because -- what is the date of my thing?</p> <p>4 Q Your report is May 28th, but initially</p> <p>5 it was due May 21st.</p> <p>6 A Yeah. So, before -- before</p> <p>7 May 21st -- I don't remember the dates -- but</p> <p>8 obviously it's pretty tight in there.</p> <p>9 Q Right.</p> <p>10 A So early on before the original due</p> <p>11 date, and then after the original due date.</p> <p>12 Q Okay. Now, you had already -- at the</p> <p>13 time you got ahold of the O'Brien report on</p> <p>14 May 15th of 2024 -- you had already submitted your</p> <p>15 expert report in the Jersey consolidated</p> <p>16 litigation, because that was due April 25th,</p> <p>17 correct?</p> <p>18 A Correct.</p> <p>19 Q So that report of April 25th, 2024</p> <p>20 does not contain any of your thoughts, analysis</p> <p>21 criticisms of O'Brien 2024, correct?</p> <p>22 A That's correct.</p> <p>23 Q So you had a window of time between</p> <p>24 April 20 -- or, excuse me, May 15th and initially</p>
<p style="text-align: right;">Page 187</p> <p>1 concerns about the methodology that the authors</p> <p>2 employed.</p> <p>3 A Right.</p> <p>4 Q Okay. Now, are the concerns that you</p> <p>5 have, sitting here today, the ones that you raise</p> <p>6 and address in your report that you filed on</p> <p>7 May 28th, 2024?</p> <p>8 A Yes.</p> <p>9 Q Okay. Before you either wrote your</p> <p>10 report -- and certainly before you came today --</p> <p>11 did you communicate with anybody -- either in your</p> <p>12 academic community or otherwise -- and discuss the</p> <p>13 concerns that you had with the methodology that</p> <p>14 was employed by the authors that conducted the</p> <p>15 2024 O'Brien study?</p> <p>16 A No, just lawyers.</p> <p>17 Q Okay. So you did communicate with</p> <p>18 lawyers about your concerns --</p> <p>19 A I did.</p> <p>20 Q -- on the methodology? Okay. How</p> <p>21 soon after receiving the O'Brien article did you</p> <p>22 have those discussions with your lawyers?</p> <p>23 MS. LEHMAN: Object to form.</p> <p>24 A It had to be pretty soon, because</p>	<p style="text-align: right;">Page 189</p> <p>1 May 21st to review it?</p> <p>2 How much time, or on how many</p> <p>3 occasions did you speak -- I don't want to know</p> <p>4 your conversations -- but on how many times -- how</p> <p>5 many times did you speak with lawyers for J&amp;J,</p> <p>6 specifically, about the O'Brien 2024, and</p> <p>7 incorporating that in your May 28th report?</p> <p>8 A Probably twice, I would say.</p> <p>9 Q You had two different discussions with</p> <p>10 them?</p> <p>11 A Yes.</p> <p>12 Q Before you had the discussions with</p> <p>13 J&amp;J's attorney about the article and what you</p> <p>14 would write and say, did you -- had you committed</p> <p>15 anything to writing?</p> <p>16 A No. I had read the article and, you</p> <p>17 know, just made my underlines or highlights or</p> <p>18 whatever, but I had not written anything yet.</p> <p>19 Q Okay. Are those underlines and</p> <p>20 highlights -- on the O'Brien 2024 -- that we have</p> <p>21 in your packet, that I think we marked a little</p> <p>22 bit earlier?</p> <p>23 A Let me see. I actually have two</p> <p>24 copies.</p>

<p style="text-align: right;">Page 190</p> <p>1 Q Okay.</p> <p>2 A And this one has highlights and this</p> <p>3 one has underlines.</p> <p>4 Q Okay.</p> <p>5 A I don't know if they're the same or</p> <p>6 not.</p> <p>7 Q Okay. Well, we will get copies of</p> <p>8 both --</p> <p>9 A Yes.</p> <p>10 Q -- but in those conversations that you</p> <p>11 had with J&amp;J counsel, you made some underlines or</p> <p>12 some highlights, whatever the case may be,</p> <p>13 correct?</p> <p>14 A I did them before I had the</p> <p>15 conversations.</p> <p>16 Q Okay. Now, did you also understand --</p> <p>17 in your review of the 2024 O'Brien study -- that</p> <p>18 it was one of the first NIH papers to use this</p> <p>19 Quantitative Bias Analysis to assess the impact of</p> <p>20 errors in reporting of data?</p> <p>21 A I don't know where it fits, you know,</p> <p>22 in terms of what their experience is otherwise.</p> <p>23 They may have said that, but I don't -- I don't</p> <p>24 recall that.</p>	<p style="text-align: right;">Page 192</p> <p>1 ovarian cancer.</p> <p>2 MS. PARFITT: Other than talking to</p> <p>3 the lawyers at J&amp;J, did you consult with any other</p> <p>4 consultants or medical or scientific people?</p> <p>5 A No.</p> <p>6 Q Did you discuss the 2024 O'Brien with</p> <p>7 Dr. Merlo?</p> <p>8 A No. I think there was a call I had</p> <p>9 with him when he was in the Middle East and I said</p> <p>10 "had you read it?" And he said "no," and that was</p> <p>11 it. So I didn't get a chance to talk to him about</p> <p>12 it.</p> <p>13 Q So you all didn't talk about it</p> <p>14 afterwards when he came back from the Middle East?</p> <p>15 A No, not the content. I had just</p> <p>16 wondered if he had read it.</p> <p>17 Q Okay. Similarly, I should have asked</p> <p>18 you earlier, you have a copy of Dr. Merlo's</p> <p>19 transcript from his deposition last week.</p> <p>20 Have you talked to Dr. Merlo about his</p> <p>21 testimony last week?</p> <p>22 A Only briefly. He called me from his</p> <p>23 Uber ride home, but only to see -- I mean, the</p> <p>24 main thing was, he and his wife wanted to get</p>
<p style="text-align: right;">Page 191</p> <p>1 Q Okay. Well, is it the first time you</p> <p>2 had read -- in your review of talcum powder papers</p> <p>3 and ovarian cancer -- where you had read about</p> <p>4 authors using a Quantitative Bias Analysis to</p> <p>5 assess the impact of potential error?</p> <p>6 A I would have to look back. I think,</p> <p>7 is it Goodman? There's another paper that I've</p> <p>8 cited where they looked at the potential role of</p> <p>9 recall bias -- and I may have the first author</p> <p>10 wrong -- and they used the sensitivity and</p> <p>11 specificity and predictive values, I think as</p> <p>12 generated by O'Brien 2021 -- or 2020, I apologize,</p> <p>13 and applied them to a Cramer study. You may know</p> <p>14 what I'm talking about.</p> <p>15 Q I do. Is that the only one that you</p> <p>16 think may have used some type of analytical basis</p> <p>17 to -- to assess the impact of error in reporting?</p> <p>18 A On talcum powder and ovarian cancer?</p> <p>19 Q Okay. On talcum powder and ovarian</p> <p>20 cancer?</p> <p>21 A I think that's --</p> <p>22 THE REPORTER: On talcum powder and</p> <p>23 what?</p> <p>24 THE WITNESS: On talcum powder and</p>	<p style="text-align: right;">Page 193</p> <p>1 together that night and wanted to see if we had</p> <p>2 plans.</p> <p>3 Q Okay. You didn't talk about how that</p> <p>4 went, how nice Mr. Tisi was to him?</p> <p>5 A Oh, he said that he was a peach and</p> <p>6 that -- but I was more interested in how long it</p> <p>7 took, which I think was like five hours or</p> <p>8 something like that. I don't know what it was.</p> <p>9 But, yeah, I mean, he was on his way</p> <p>10 home, so there wasn't really time. And as it</p> <p>11 turned out, we didn't -- we had other plans that</p> <p>12 night, so we didn't get together.</p> <p>13 Q Okay. So, you couldn't have a social</p> <p>14 engagement with him, but you did talk briefly</p> <p>15 about how long the deposition took?</p> <p>16 A That's right.</p> <p>17 Q And that Mr. Tisi was a peach?</p> <p>18 A Exactly.</p> <p>19 Q All right. Very good. That's the</p> <p>20 important things. How many hours did you spend</p> <p>21 actually writing and analyzing 2024 O'Brien?</p> <p>22 A Well, analyzing a bunch, because it's</p> <p>23 a dense, dense, dense paper.</p> <p>24 Q Tell me about it.</p>

<p style="text-align: right;">Page 194</p> <p>1 A Right, I know. So I read it several 2 times, which took a -- took a while. The writing 3 part, I don't know. 4 That didn't take too long, because I 5 formulated the ideas, you know, and then I had 6 enough sort of just highlights and underlines to 7 kind of know where I was going. 8 So, I don't know if that took like an 9 hour, hour and a half or something. 10 Q Okay. Well, whole kit and kaboodle, 11 how -- what was -- what was the time, analyzing 12 writing, what do you think you spent? 13 A 15 to 20 hours. 14 Q Okay. You didn't consult with any 15 biostatisticians? 16 A None, no. No. 17 Q Okay. All right. It's solely your 18 work? 19 A Oh, a hundred percent, yeah. Yeah. 20 Q All right. Now, let me show you -- 21 before we actually get into the article -- what we 22 will have marked as now Exhibit Number -- 23 MR. TISI: Just bear with me. Tell me 24 what you want?</p>	<p style="text-align: right;">Page 196</p> <p>1 A -- so I think it was probably timed to 2 come out with the publication. 3 Q Okay. All right. Now, are you a 4 member of the society, excuse me, of the American 5 Society of Clinical Oncology? 6 A No. 7 Q Okay. That is the group that actually 8 published the journal article by Dr. O'Brien in 9 2024, correct? 10 A I know it's their journal. I don't 11 know what it means to be the "publisher" of it. 12 And so, I mean, if it's a technicality, I'm not 13 sure, but it's the journal of that society. 14 Q Okay. Do you understand or have you 15 seen -- if you've reviewed the document -- that 16 this association represents about 50,000 oncology 17 professionals? 18 A Oh, no, I don't know that. I 19 didn't -- I didn't read that part. 20 Q Okay. If you go to the last page 21 under about ASCO, it talks about who they are and 22 who they represent. 23 A I see. 24 Q Okay. One of ASCO's -- and there</p>
<p style="text-align: right;">Page 195</p> <p>1 MS. PARFITT: It's the ASCO. 2 THE REPORTER: You said ASCO? 3 MS. PARFITT: It's the ASCO exhibit. 4 MR. TISI: I will find that for you. 5 She will identify it. 6 MS. PARFITT: For the record, 7 Dr. Diette and Counsel, I'm showing you what's 8 been marked as Exhibit, what number, Chris? 9 MR. TISI: 22, I think. 10 MS. PARFITT: 22, which is -- 11 MR. TISI: 23. Excuse me. 12 (Diette Exhibit 23 was marked for 13 purposes of identification.) 14 MS. PARFITT: 23, which is a document 15 entitled, "Study Finds Association Between Genital 16 Talc Use and Increased Risk of Ovarian Cancer." 17 Do you see that Dr. Diette? 18 A I do. 19 Q And the date is May 15th, 2024, which 20 corresponds with your recollection of your review, 21 correct? 22 A Well, yeah, I think it's the 23 publication date -- 24 Q Correct.</p>	<p style="text-align: right;">Page 197</p> <p>1 is -- one of ASCO's journals include the Journal 2 of Clinical Oncology, and that is the journal, 3 indeed, that O'Brien 2024 was published? 4 A That's right. 5 Q And ASCO describes, at the bottom of 6 page 4 of the document, as "the Journal of 7 Clinical Oncology offer incredible, authoritative 8 resources for peer-reviewed clinical oncology 9 research that informs high-quality patient care 10 worldwide." Do you see that? 11 A I see that's what they say about 12 themselves. 13 Q Correct. But you're not a member of 14 their society? 15 A I am not. 16 Q Okay. And you don't receive their 17 journal? 18 A I don't get journals anymore. That's 19 just not the way that the world works. 20 Q Okay. 21 A Yeah. 22 Q Well, when you did receive journals, 23 is this the kind of journal you would receive -- 24 A No.</p>



<p style="text-align: right;">Page 198</p> <p>1 Q -- oncology?</p> <p>2 A No. No.</p> <p>3 Q Okay. So, when did you first see this</p> <p>4 release, this speech or release of this study?</p> <p>5 A What is today, Wednesday?</p> <p>6 Q I think.</p> <p>7 A Probably Friday-ish.</p> <p>8 Q Okay. How did you get it?</p> <p>9 A From the lawyers.</p> <p>10 Q Okay. That's the first time that you</p> <p>11 had seen it, correct?</p> <p>12 A It is.</p> <p>13 Q Okay. Let's look at what ASCO's -- if</p> <p>14 you look under "ASCO Perspective," do you see</p> <p>15 that?</p> <p>16 A I do.</p> <p>17 Q All right. Let's examine how ASCO,</p> <p>18 the American Society, describes the O'Brien,</p> <p>19 et al. paper.</p> <p>20 The first paragraph said, this study</p> <p>21 underscores the potential risks associated with</p> <p>22 intimate care products, particularly genital talc.</p> <p>23 The evidence adds to a growing body of</p> <p>24 literature that suggests such products could</p>	<p style="text-align: right;">Page 200</p> <p>1 takeaway. It states, "genital talc use was found</p> <p>2 to be positively associated with the risk of</p> <p>3 ovarian cancers across multiple scenarios, even</p> <p>4 after adjusting for potential reporting biases and</p> <p>5 misclassification."</p> <p>6 "The association was particularly</p> <p>7 strong among women who used talc frequently, or</p> <p>8 especially during periods of significant hormonal</p> <p>9 changes or reproductive activity." Did I read</p> <p>10 that correctly?</p> <p>11 A Yes.</p> <p>12 Q Do you agree with that statement?</p> <p>13 A Well, some of these findings are what</p> <p>14 was reported. It's not a, you know, a complete</p> <p>15 listing of what was found, but this includes what</p> <p>16 the authors of the study said.</p> <p>17 Q Okay. And does it represent that the</p> <p>18 study by O'Brien 2024 showed that there was a</p> <p>19 positive association to use of -- use of genital</p> <p>20 talcum powder and ovarian cancer that was</p> <p>21 statistically significant?</p> <p>22 A Well, it doesn't say "statistically</p> <p>23 significant."</p> <p>24 Q It doesn't.</p>
<p style="text-align: right;">Page 199</p> <p>1 contribute to an increased risk of ovarian cancer,</p> <p>2 especially among frequent users and those using</p> <p>3 products in their 20s and 30s. And they have ASCO</p> <p>4 expert, Fumiko Chino. Do you see that?</p> <p>5 A I do.</p> <p>6 Q Okay. Do you know Fumiko Chino?</p> <p>7 A I do not.</p> <p>8 Q Okay. She's an oncologist over at</p> <p>9 Sloan Kettering, correct? Is that right? She's</p> <p>10 an oncologist over at Sloan Kettering, is what it</p> <p>11 says.</p> <p>12 A Oh, yeah. Yeah. I'm sorry. I didn't</p> <p>13 realize it was a question.</p> <p>14 Q No. No. Okay. It probably wasn't a</p> <p>15 good one.</p> <p>16 A No, no. Sometimes I just don't know</p> <p>17 if somebody is just saying something, or whether</p> <p>18 it's a question.</p> <p>19 Q Now, is it your understanding that</p> <p>20 they feature, for the reader, several things.</p> <p>21 They have a focus, a population, a main takeaway</p> <p>22 and significance. Do you see that?</p> <p>23 A I do.</p> <p>24 Q Okay. Let's look down at the main</p>	<p style="text-align: right;">Page 201</p> <p>1 A Okay.</p> <p>2 Q But you've read the article?</p> <p>3 A Yeah. And it depends upon which</p> <p>4 finding is statistically significant; but</p> <p>5 regardless of statistical significance, this is</p> <p>6 what -- otherwise, this is what they were saying.</p> <p>7 Q Okay. "They," being the O'Brien</p> <p>8 article, or authors?</p> <p>9 A Well, I don't know. I think, I mean,</p> <p>10 it looks like Naomi Hagelund is the --</p> <p>11 Q She's reporting on the study?</p> <p>12 A She's reporting, yeah. She's</p> <p>13 reiterating like her -- her take on what she</p> <p>14 believes the author is stating.</p> <p>15 Q Okay. Down to significance, do you</p> <p>16 see that?</p> <p>17 A I do.</p> <p>18 Q Okay. It states, "these findings</p> <p>19 contribute significant insights into the ongoing</p> <p>20 debate about the safety of intimate care products</p> <p>21 and underscore the need for further research and</p> <p>22 potential reevaluation of these product's safety."</p> <p>23 Do you see that?</p> <p>24 A I do.</p>

<p style="text-align: right;">Page 202</p> <p>1 Q Okay. Do you agree that the</p> <p>2 O'Brien 2024 paper provided significant insights</p> <p>3 into the debate and discussion about safety of</p> <p>4 inmate care products?</p> <p>5 A No. I don't think it was very</p> <p>6 helpful.</p> <p>7 Q You don't?</p> <p>8 A No.</p> <p>9 Q Okay. We'll come back to that.</p> <p>10 A Okay.</p> <p>11 Q We'll come back.</p> <p>12 Do you see on the next page, there is</p> <p>13 a quote by Dr. O'Brien, and she's one of the</p> <p>14 authors. Do you see that --</p> <p>15 A I do.</p> <p>16 Q In the second paragraph?</p> <p>17 A Yes.</p> <p>18 Q "Despite challenges in assessing</p> <p>19 exposure history and bias, inherent in</p> <p>20 retrospective data, our findings are robust,</p> <p>21 showing a consistent association between genital</p> <p>22 talc use and ovarian cancer," said lead study</p> <p>23 author Katie O'Brien, researcher at NIEHS.</p> <p>24 Do you agree with that, with</p>	<p style="text-align: right;">Page 204</p> <p>1 to you that it is a release of the article, again,</p> <p>2 the 2024 article by NIH and the National Institute</p> <p>3 of Environmental Health Sciences, and it's dated</p> <p>4 June 2024 and entitled, "Genital Talc Use May Be</p> <p>5 Linked to Increased Risk of Ovarian Cancer." Do</p> <p>6 you see that?</p> <p>7 (Diette Exhibit 24 was marked for</p> <p>8 purposes of identification.)</p> <p>9 A I do.</p> <p>10 Q Okay. Right underneath it -- have you</p> <p>11 read this before?</p> <p>12 A I have.</p> <p>13 Q Okay. When did you first see this?</p> <p>14 A Within the last 7 days.</p> <p>15 Q Was that also on Friday?</p> <p>16 A Well, I'm just thinking Friday, but</p> <p>17 you know, somewhere in the last 7 days.</p> <p>18 Q Dr. Merlo was deposed on Friday. Do</p> <p>19 you think it was after he was deposed and these</p> <p>20 documents were used with him?</p> <p>21 A No.</p> <p>22 Q Okay.</p> <p>23 A No, I think -- I mean, it might have</p> <p>24 been on Friday, but not necessarily. I don't time</p>
<p style="text-align: right;">Page 203</p> <p>1 Dr. O'Brien, the study results showed robust</p> <p>2 consistent association between talcum powder use</p> <p>3 and ovarian cancer?</p> <p>4 A I don't.</p> <p>5 Q You disagree? Okay. Then it says,</p> <p>6 "this study also leverages detailed lifetime</p> <p>7 exposure histories -- and the unique design of the</p> <p>8 Sister Study -- to provide more reliable evidence</p> <p>9 that supports the potential association between</p> <p>10 long-term and frequent genital talc use and</p> <p>11 ovarian cancer." Did I read that correctly?</p> <p>12 A You did.</p> <p>13 Q Do you agree with Dr. O'Brien when she</p> <p>14 states that this study leveraged detailed life</p> <p>15 exposures, and provided more reliable evidence of</p> <p>16 association between long-term and frequent genital</p> <p>17 talc use?</p> <p>18 A No. I don't think they -- I don't</p> <p>19 think they identified that it was more reliable.</p> <p>20 Q Okay. Fair enough. All right. Let's</p> <p>21 go to the next one. We will have marked as</p> <p>22 Exhibit Number --</p> <p>23 MR. TISI: 24.</p> <p>24 MS. PARFITT: 24. And I'll represent</p>	<p style="text-align: right;">Page 205</p> <p>1 it with that.</p> <p>2 Q Okay. All right. Do you see where it</p> <p>3 says, "new study by NIEHS scientist provides</p> <p>4 compelling evidence that genital talc use is</p> <p>5 associated with an increased risk of ovarian</p> <p>6 cancer." Do you see that? Did I read that</p> <p>7 correctly?</p> <p>8 A Yes.</p> <p>9 Q Do you agree with the NIEHS scientist</p> <p>10 that actually conducted the study that their work</p> <p>11 provides compelling evidence that genital talc use</p> <p>12 is associated with the increased risk of ovarian</p> <p>13 cancer?</p> <p>14 A No. I don't think it's compelling</p> <p>15 evidence.</p> <p>16 Q Okay. That was a statement from the</p> <p>17 NIH, correct?</p> <p>18 A That is correct.</p> <p>19 Q Okay. If you look down there, it</p> <p>20 says, "this is the first of its kind to include</p> <p>21 detailed data on women's use of intimate care</p> <p>22 products across their life course." Do you see</p> <p>23 that?</p> <p>24 A I don't.</p>

<p style="text-align: right;">Page 206</p> <p>1 Q I'm sorry, it's right there under --</p> <p>2 A Oh, I got it -- I got it.</p> <p>3 Q You've got it?</p> <p>4 A Yeah.</p> <p>5 Q Okay. And, again, as it pertains to</p> <p>6 ovarian cancer and talcum powder, is it your</p> <p>7 understanding this is the first study, cohort</p> <p>8 study, to include detailed data on women's use of</p> <p>9 intimate care products across their entire life</p> <p>10 course?</p> <p>11 MS. LEHMAN: Objection. Asked and</p> <p>12 answered.</p> <p>13 MS. PARFITT: I'm limiting it to</p> <p>14 ovarian cancer.</p> <p>15 A Yeah, yeah. I mean, it's the first</p> <p>16 that I've seen that does that.</p> <p>17 Q Then it says "this extensive analysis</p> <p>18 was conducted using data from the Sister Study."</p> <p>19 Can we agree that, in fact, the analysis was</p> <p>20 conducted using information that had been</p> <p>21 originally collected from Sister Study?</p> <p>22 A Of course.</p> <p>23 Q Okay. Now, there are some key -- if</p> <p>24 you go to the next page, and then, it states at</p>	<p style="text-align: right;">Page 208</p> <p>1 that it provides reliable evidence that supports a</p> <p>2 potential association between long-term and</p> <p>3 frequent genital talc use and ovarian cancer?</p> <p>4 A Again, I don't agree with that.</p> <p>5 Q Okay. Now, the authors state -- if</p> <p>6 you go down to, and I'm sorry, mine are a little</p> <p>7 different here.</p> <p>8 It says under "Key Findings," first,</p> <p>9 "the study demonstrates persistent positive</p> <p>10 association between genital talc use and ovarian</p> <p>11 cancer, with the strongest associations observed</p> <p>12 for frequent and long-term users and for use</p> <p>13 during reproductive years." Did I read that</p> <p>14 correctly?</p> <p>15 A Yes.</p> <p>16 Q Do you agree that the study</p> <p>17 demonstrated persistent, positive association</p> <p>18 between genital talc use and ovarian cancer, with</p> <p>19 the strongest associations observed for frequent</p> <p>20 and long-term users and for use during</p> <p>21 reproductive years?</p> <p>22 A No.</p> <p>23 Q You disagree with that?</p> <p>24 A I disagree.</p>
<p style="text-align: right;">Page 207</p> <p>1 the top that "the authors used this quantitative</p> <p>2 bias analysis to assess the impact of potential</p> <p>3 errors in reporting use of intimate care</p> <p>4 products." Do you see that? It's right at the</p> <p>5 top, yeah.</p> <p>6 A Am I looking at the right place?</p> <p>7 Q Right over here above the pictures.</p> <p>8 A Mine is formatted differently.</p> <p>9 Q I'm sorry. Okay. Okay. Yours is on</p> <p>10 the first page.</p> <p>11 A Okay.</p> <p>12 Q And it says, "despite challenges in</p> <p>13 assessing exposure history and biases inherent in</p> <p>14 retrospective data, our findings are robust</p> <p>15 showing consistent association between genital</p> <p>16 talc use and ovarian cancer."</p> <p>17 We talked about that and I asked you</p> <p>18 whether you agreed and you said you did not.</p> <p>19 And then you said "leverages longtime,</p> <p>20 detailed exposure history," and you agreed that it</p> <p>21 did leverage detailed lifetime exposure history,</p> <p>22 correct?</p> <p>23 A Correct.</p> <p>24 Q Okay. And do you agree or disagree</p>	<p style="text-align: right;">Page 209</p> <p>1 Q Next, "key finding." No significant</p> <p>2 associations were found between genital talc use</p> <p>3 or douching and breast or uterine cancer. Do you</p> <p>4 agree with that statement?</p> <p>5 A I think they reported some positive</p> <p>6 findings for douching. I agree with it regarding</p> <p>7 breast and uterine cancer.</p> <p>8 Q Okay. Do you see -- there is a</p> <p>9 picture of two women at the top. Do you see that?</p> <p>10 A I do.</p> <p>11 Q Okay. To the right, it has --</p> <p>12 actually, to the right of the pictures, it has a</p> <p>13 statement and it shows O'Brien to the left and</p> <p>14 Dr. Sandler, two of the authors.</p> <p>15 And the authors are quoted as saying,</p> <p>16 "there is no medical reason to use these</p> <p>17 products," speaking about talc. "If women are</p> <p>18 using these products, they might want to reduce</p> <p>19 their frequency of use, look for alternatives or</p> <p>20 talk to their doctor about their concerns." Do</p> <p>21 you see that?</p> <p>22 A I do.</p> <p>23 Q Okay. Do you agree with Doctors</p> <p>24 Sandler and O'Brien's opinion that there is no</p>

<p style="text-align: right;">Page 210</p> <p>1 medical reason to use talc?</p> <p>2 A I don't know why nonphysicians are</p> <p>3 commenting on medical reasons to use anything.</p> <p>4 But in -- I don't know. There may be.</p> <p>5 I mean, I know -- I think -- I can't</p> <p>6 remember which one, but I think one of the</p> <p>7 defense's expert reports I read mentioned that</p> <p>8 talc is recommended for use after like a certain</p> <p>9 surgery or something, and -- you know, I really</p> <p>10 can't say.</p> <p>11 Q Okay.</p> <p>12 A I can't say that there is no medical</p> <p>13 indication.</p> <p>14 Q Okay. So, you can't really agree or</p> <p>15 disagree with the statement that there is no</p> <p>16 medical reason to use these talc products?</p> <p>17 A Right. I don't disagree or agree.</p> <p>18 Q Okay. Now, they also make some health</p> <p>19 care recommendations where they suggest if you use</p> <p>20 it, reduce the use.</p> <p>21 Do you agree or disagree with their</p> <p>22 recommendation -- regardless of their expertise to</p> <p>23 do so, as you question -- do you agree or disagree</p> <p>24 with their recommendation that if you use talc,</p>	<p style="text-align: right;">Page 212</p> <p>1 A I read that in a press release. I</p> <p>2 don't otherwise know it as a fact.</p> <p>3 Q Okay. You do know that since 2019,</p> <p>4 when you were last deposed, that there is no</p> <p>5 talcum powder products being manufactured for</p> <p>6 sale?</p> <p>7 There may be some left on the shelves,</p> <p>8 but there is none being manufactured and sold in</p> <p>9 the United States, North America, the world,</p> <p>10 correct?</p> <p>11 MS. LEHMAN: Object to form.</p> <p>12 A I do understand that.</p> <p>13 Q Do you know that cornstarch baby</p> <p>14 powder continues to be sold and used by consumers</p> <p>15 in North America and Europe and abroad?</p> <p>16 A I don't -- I don't doubt it, but I</p> <p>17 don't know that like, you know, from any</p> <p>18 particular source.</p> <p>19 Q Do you know whether or not J&amp;J</p> <p>20 continues to have their patent for cornstarch?</p> <p>21 A I don't even know if they have one.</p> <p>22 Q You didn't know whether they had a</p> <p>23 patent for cornstarch?</p> <p>24 A Correct.</p>
<p style="text-align: right;">Page 211</p> <p>1 reduce use?</p> <p>2 A So, I don't know. I mean, since it's</p> <p>3 an entire sentence, I do think that the idea of</p> <p>4 talking to their doctor about that makes some</p> <p>5 sense; and see if their doctor would endorse</p> <p>6 reducing the frequency or looking for</p> <p>7 alternatives? But --</p> <p>8 Q And that's because talc is a</p> <p>9 modifiable perspective, correct? You can choose</p> <p>10 to use or not use?</p> <p>11 A Yeah. And if you're concerned about</p> <p>12 it, don't use it. But I don't know whether it's</p> <p>13 important to actually limit it, but it's okay to</p> <p>14 talk about it.</p> <p>15 Q Now, do you also agree with their</p> <p>16 recommendation that, look for alternatives, such</p> <p>17 as cornstarch? Is that an alternative to talcum</p> <p>18 powder?</p> <p>19 A I've read that it is, but I'm not sure</p> <p>20 whether it's an appropriate one. Like, I don't</p> <p>21 know anything about its safety or efficacy, you</p> <p>22 know, for what it's being used for.</p> <p>23 Q You know that Johnson &amp; Johnson,</p> <p>24 today, only sells cornstarch baby powder, correct?</p>	<p style="text-align: right;">Page 213</p> <p>1 Q J&amp;J never informed you of that?</p> <p>2 A No.</p> <p>3 MS. LEHMAN: Object to form.</p> <p>4 Q You are a medical doctor?</p> <p>5 A I am.</p> <p>6 Q Okay. So these recommendations --</p> <p>7 strike that. I'll move on.</p> <p>8 There is a quote in the article, and</p> <p>9 I'm trying to direct you to it, that says -- that</p> <p>10 is fine. Okay. We're going to go ahead and put</p> <p>11 that aside and keep moving.</p> <p>12 So what I would like to do is, before</p> <p>13 we get to your questions and concerns about the</p> <p>14 actual study, let's talk a little bit about the</p> <p>15 statistical analysis here.</p> <p>16 I noticed in your report that you did</p> <p>17 not identify for the reader any types of</p> <p>18 references to any of the statistical methods that</p> <p>19 were used by the authors, O'Brien, in the 2024,</p> <p>20 did you see that?</p> <p>21 A I mean, I know that.</p> <p>22 Q Okay. So when you were discussing</p> <p>23 2024 in your report -- and I think it's around</p> <p>24 pages 10, 11, 12 -- you did not footnote any</p>

<p style="text-align: right;">Page 214</p> <p>1 research articles that addressed any of the 2 statistical methods that were used by the authors 3 correct? 4 A Correct. 5 Q Okay. You did quote reports by some 6 of the plaintiff's experts as authorities or 7 footnotes, but you didn't site any statistical 8 reference; is that fair? 9 MS. LEHMAN: Object to form. 10 A Wait a minute. I didn't -- I didn't 11 have any plaintiff expert reports about 12 O'Brien 2024. 13 Q No. I should be more clear. You 14 referenced some of their statements, generally? 15 A Oh, generally speaking, yeah. 16 Q Yes. 17 A But I didn't -- but I didn't -- I have 18 them now, but I didn't have them when I wrote 19 this -- 20 Q Right. 21 A -- regarding O'Brien 2024. 22 Q Right. I think my point was, when you 23 were having the discussion about O'Brien 2024, any 24 references or footnotes during your discussion of</p>	<p style="text-align: right;">Page 216</p> <p>1 mentioned I think in one of your reports, Rubin. 2 Isn't that a statistics -- a statistician? 3 A There is a statistician called Rubin 4 that links up to Rubin's Rules, but I don't -- I 5 don't recall and I don't know if it's the same 6 Rubin. Like, I don't recall using that. 7 Q Now, you didn't do any -- well, let me 8 ask you, did you do any statistical research 9 before writing your section on O'Brien 2024? 10 A If by research you mean, you know, 11 learning how to conduct things, I've done it 12 throughout my career, but nothing specific for 13 O'Brien 2024. 14 Q Okay. Did you consult or reference 15 any articles on the various methods that were 16 employed by O'Brien 2024; and by that multiple 17 imputation, any of those methods -- 18 A No. 19 Q -- QBA? 20 A No. 21 Q Okay. All right. We asked Dr. Merlo 22 and we asked you -- you probably saw it in the 23 transcript -- do you know Dr. Elizabeth Stuart, 24 who is chair of the Johns Hopkins Biostatistic</p>
<p style="text-align: right;">Page 215</p> <p>1 O'Brien 2024 had more to do with comments that 2 were made by plaintiff's experts as opposed to any 3 authorities on statistical methods, correct? 4 MS. LEHMAN: Object to form. 5 A Well, it has to be, right? Because I 6 mean, I think if I brought in, you know, 7 plaintiff's expert opinions, it would have been, 8 you know, more general opinions that I've seen; 9 opinions I've seen more generally, but not 10 specific to O'Brien 2024. 11 Q Right. But I'm just saying there are 12 no authorities -- in the body of your report or in 13 your references -- to talk about the various 14 methodological, statistical analyses that were 15 done, correct? 16 MS. LEHMAN: Object to form. 17 A So, the use of the word "authorities," 18 just, it trips me up, because I understand -- 19 that's a legal term I don't use. 20 I mean, I think the word "authority" 21 might show up in my report one time or something. 22 But I don't recognize like authoritative documents 23 for statistics or epi or medicine or anything. 24 Q Okay. Well, you did mention, you</p>	<p style="text-align: right;">Page 217</p> <p>1 Department? 2 A I don't know her personally. I mean, 3 I know her name. I think she took over for 4 Dr. van de Roche just recently, whom I did know, 5 but I don't know the incoming chair. 6 (Overlapping speakers.) 7 Q Okay. So, you didn't consult her and 8 talk to her about her opinions regarding the 9 statistical analysis that was employed by the 10 authors -- 11 A I have never -- I'm sorry. I didn't 12 meant to interrupt. 13 Q That's all right. No problem. 14 A I've never consulted her about 15 anything, including, including this. 16 Q Okay. All right. Let me show you 17 what we will have marked as Harris, the Harris 18 editorial. 19 And I think we are up to? Dr. Diette, 20 we will have this marked as what Exhibit? 21 MR. TISI: This is number 25. 22 (Diette Exhibit 25 was marked for 23 purposes of identification.) 24 Q We will represent to you that</p>



<p style="text-align: right;">Page 218</p> <p>1 Exhibit 25 is an article that is entitled,  2 "Epidemiological Methods to Advance Our  3 Understanding of Ovarian Cancer Risk."  4 A Okay.  5 Q And I'll represent that it was  6 authored by Holly Harris and Colette Davis and  7 Kathryn Terry, and it's dated, also, 2024 and it's  8 published in the Journal of Clinical Oncology.  9 You made a distinction a little bit  10 earlier, Doctor, about invited versus not invited  11 editorials. Would you agree with me that this  12 editorial by Dr. Harris et al. is an invited  13 editorial?  14 A I think it likely was; but just to  15 clarify, I wasn't talking about invited versus not  16 invited editorials. I was saying that Letters to  17 the Editor are not invited and that editorials  18 tend to be.  19 Q This is indeed an editorial as opposed  20 to a Letter to the Editor?  21 A That's correct.  22 Q You've distinguished it from our  23 earlier discussion.  24 A That's exactly right.</p>	<p style="text-align: right;">Page 220</p> <p>1 A Okay.  2 Q Similarly, I've looked at your report  3 and I don't see the Harris editorial listed in  4 your report either; is that fair?  5 A Oh, I think so, yeah. I don't, I  6 mean, I haven't --  7 Q You said you haven't read it --  8 A Right.  9 Q -- so I can't imagine you would have  10 listed something that you didn't read, or  11 referenced it?  12 A Exactly.  13 Q Okay. Now, do you know any of those  14 authors, Harris, Davis or Kathryn Terry?  15 A No.  16 Q Okay.  17 A I'm just looking to see whether --  18 Q Let me try -- maybe this will help a  19 little bit. Do you know that Dr. Harris and  20 Dr. Davis are authors of the largest study  21 consortiums to date to compare the association  22 between genital powder use and ovarian cancer, and  23 histotypes between African Americans and white  24 women?</p>
<p style="text-align: right;">Page 219</p> <p>1 Q Okay. Have you read this editorial  2 that was published in the Journal of Clinical  3 Oncology?  4 A I have not.  5 Q Okay. Do you know that this was --  6 well, this followed the O'Brien -- I'll represent  7 to you this editorial followed the O'Brien 2024  8 publication, all right? Take my representation on  9 that?  10 A Oh, yeah. Yeah, I'm just -- I'm  11 seeing it looks like it was published the same  12 day.  13 Q Correct. Okay. But obviously, you  14 have to publish something and then somebody do  15 their -- do their --  16 A Yeah. They would be writing about it.  17 Q Correct.  18 A After they've -- they may well be the  19 reviewers of the study, which would be common.  20 Q Okay. All right. Now, this Harris  21 article is not listed in your references, correct?  22 A I don't believe it is.  23 Q Okay. And I'll represent that I've  24 looked at your references and I didn't see it.</p>	<p style="text-align: right;">Page 221</p> <p>1 A I wouldn't have recalled that if you  2 hadn't said it, but I know the study you're  3 talking about.  4 Q Okay. That was indeed one of the  5 largest study consortiums that compared talcum  6 powder use with -- and ovarian cancer -- with  7 women of color versus white women, correct?  8 A That's exactly right.  9 Q Okay. Those authors, Harris and  10 Davis, concluded in their study, the Davis study,  11 that there was a positive association between  12 talcum powder use and ovarian cancers?  13 And that association was similar  14 across and it didn't vary by --  15 A Race or ethnicity.  16 Q Race or ethnicity? Yes.  17 A That is my understanding.  18 Q Now, also, Katie Terry, who is  19 referenced as one of the authors, is also one of  20 the lead authors of one of the pooled studies,  21 examining the association between talcum powder  22 use and ovarian cancer entitled:  23 "Genital Powder Use and Risk of  24 Ovarian Cancer, a pooled analysis of 8 cases, 525</p>

<p style="text-align: right;">Page 222</p> <p>1 cases -- excuse me, 8,525 cases and 9,849</p> <p>2 controls, that was published in the American</p> <p>3 Association for Cancer Research?" Do you remember</p> <p>4 reading that article?</p> <p>5 A Oh, I know the article. Yes.</p> <p>6 Q Do you have it?</p> <p>7 A I think that's reference to my first</p> <p>8 report, because that is a pre-2019.</p> <p>9 Q That's exactly right. It was the</p> <p>10 Terry study.</p> <p>11 A Yes.</p> <p>12 Q That was -- I think we've referred to</p> <p>13 it as the Terry study.</p> <p>14 A Yes.</p> <p>15 Q Okay. She was one of the lead</p> <p>16 authors, correct?</p> <p>17 A I think she was the lead author.</p> <p>18 Q Correct, again. And Dr. Terry and</p> <p>19 authors concluded at that time that there was</p> <p>20 indeed a positive association, statistically</p> <p>21 significant, between ovarian cancer and exposure</p> <p>22 to talcum powder in the genital area, correct?</p> <p>23 MS. LEHMAN: Object to form. The</p> <p>24 article speaks for itself.</p>	<p style="text-align: right;">Page 224</p> <p>1 MS. LEHMAN: The same objection.</p> <p>2 THE WITNESS: Do you want me to</p> <p>3 answer?</p> <p>4 MS. LEHMAN: No. I would instruct you</p> <p>5 not to answer about the 2013 article.</p> <p>6 MS. PARFITT: Okay. That's fine. We</p> <p>7 will leave it at that.</p> <p>8 So, let's look at what Dr. Harris had</p> <p>9 to say. Dr. Harris, the 1, 2, 3, 4th paragraph on</p> <p>10 page 1, states, "after accounting for potential</p> <p>11 biases, O'Brien, et al -- that's the 2024 study --</p> <p>12 reports a significant increase in ovarian cancer</p> <p>13 risk for genital powder use with effect estimates</p> <p>14 that are in the range with previous studies."</p> <p>15 "The association is strongest for</p> <p>16 genital powder exposure, during the age ranges of</p> <p>17 20s and 30s, with similar increased risks observed</p> <p>18 for douching." Did I read that correctly?</p> <p>19 A Yes.</p> <p>20 Q Do you agree with not only the O'Brien</p> <p>21 authors, but Dr. Harris, who wrote an editorial</p> <p>22 post publication of the O'Brien study?</p> <p>23 MS. LEHMAN: Object to form.</p> <p>24 A Well, it's impossible to disagree with</p>
<p style="text-align: right;">Page 223</p> <p>1 MS. PARFITT: You can answer the</p> <p>2 question.</p> <p>3 MS. LEHMAN: Also, excuse me, the</p> <p>4 article is outside the scope of this deposition,</p> <p>5 since it was published in 2013. It was discussed</p> <p>6 at length in his initial report, and in his</p> <p>7 initial deposition.</p> <p>8 MS. PARFITT: Is that correct? It was</p> <p>9 a positive association, statistically significant?</p> <p>10 A I'd honestly have to look back in</p> <p>11 order to see what they wrote. The only thing I</p> <p>12 recall for sure is that they -- in the abstract</p> <p>13 anyway, it says that they said they did not find a</p> <p>14 significant dose response.</p> <p>15 Q And then when you read the body --</p> <p>16 since we're going to talk about it, and you wrote</p> <p>17 that up, in the body of the report -- the actual</p> <p>18 content, "the data analysis demonstrated</p> <p>19 otherwise, that there was in fact a dose response</p> <p>20 that was demonstrated."</p> <p>21 That was not in the abstract? That</p> <p>22 was actually in, when the authors looked at the</p> <p>23 data, not the abstract?</p> <p>24 A I know --</p>	<p style="text-align: right;">Page 225</p> <p>1 saying that O'Brien reported that, because that's</p> <p>2 just a fact.</p> <p>3 Q That's the question.</p> <p>4 A Yes.</p> <p>5 Q Do you agree that O'Brien -- who</p> <p>6 actually did the data analysis, did the work and</p> <p>7 published the report -- revealed to the world that</p> <p>8 the results of her study, the study findings,</p> <p>9 demonstrated a significant increase in ovarian</p> <p>10 cancer risk for genital talc powder use with</p> <p>11 effect estimates that were in the range with</p> <p>12 previous studies?</p> <p>13 MS. LEHMAN: Object to form.</p> <p>14 A I think it's just a fact. I think</p> <p>15 they just, you know, recapitulated a fact of what</p> <p>16 the O'Brien, et al. reported.</p> <p>17 Q Do you disagree with that statement</p> <p>18 that is reported by the O'Brien authors and</p> <p>19 followed up by Harris, Terry and Davis?</p> <p>20 A I don't see how it's followed up.</p> <p>21 They're just saying that they reported it. Like,</p> <p>22 how can you disagree --</p> <p>23 Q That's's fair.</p> <p>24 A Yeah.</p>

<p style="text-align: right;">Page 226</p> <p>1 Q Do you agree or disagree with O'Brien, 2 Sandler, Wentzensen, Harris, Davis and Terry, when 3 they concluded that there was a significant 4 increase in ovarian cancer risk for genital powder 5 use -- with effect estimates that are in the range 6 with previous study -- showing the strongest HRs 7 for genital powder exposure during the age ranges 8 of 20s and 30s? 9 MS. LEHMAN: Object to form. 10 A So, the way this is written, it's not 11 an opinion of Harris, Davis and Terry. They're 12 reiterating what other authors said. 13 Q If the authors of O'Brien -- do you 14 agree or disagree with the authors of O'Brien 2024 15 that their study findings demonstrated a 16 significant increase in ovarian cancer risk for 17 genital powder use -- with the effect estimates 18 that are in the range of previous studies -- and 19 that the association was strongest for genital 20 powder exposure during the age ranges of 20s and 21 30s? 22 A So that's multiple things, and I 23 already answered the question about whether -- I 24 can't disagree with what they reported, right?</p>	<p style="text-align: right;">Page 228</p> <p>1 risk is still observed, adding support to the 2 plausibility of a true association between genital 3 powder use and ovarian cancer? 4 MS. LEHMAN: Objection. 5 A Yeah. Only the first part. I mean, I 6 agree that that's what -- the first part again 7 recapitulates what the O'Brien and other authors 8 said in their study. I don't think it adds 9 support to the plausibility of a true association. 10 Q Okay. Thank you. On the last page of 11 that document, it says, looking forward, do you 12 see that? 13 A I do. 14 Q It says, "looking forward, given that 15 genital powder use and douching are modifiable 16 exposures likely associated with a highly fatal 17 disease, these data suggest that people at risk of 18 ovarian cancer, particularly those in their 20s 19 and 30s, should be made aware of the potential 20 risk; but also recognizing that the actual risk of 21 ovarian cancer remains low." 22 Do you agree or disagree, that based 23 upon the O'Brien 2024 study findings -- and in 24 light of the fact that talcum powder is a</p>
<p style="text-align: right;">Page 227</p> <p>1 They reported what they reported. 2 I do disagree with what their findings 3 are and how they interpret it, but I can't 4 disagree with the report. They reported what they 5 reported. 6 Q All right. So, your disagreement, you 7 disagree with the study findings of O'Brien 2024, 8 correct? 9 A And the conclusions that they lead to. 10 Q Okay. All right. Similarly, let's go 11 down to the bottom of that paper. In this paper, 12 even with misreporting of the exposure, i.e., 13 genital powder use in half the cases -- a point 14 that you addressed in your report, Dr. Diette -- a 15 significant increase in ovarian cancer risk is 16 still observed, adding support to the plausibility 17 of a true association between genital powder use 18 and ovarian cancer risk. Did I read that 19 correctly? 20 A Yes. 21 Q Do you agree with the study findings 22 by O'Brien, et al., that even with misreporting of 23 the exposure, i.e. genital powder use in half the 24 cases, a significant increase in ovarian cancer</p>	<p style="text-align: right;">Page 229</p> <p>1 modifiable factor -- that women should be informed 2 of the risk of talcum powder use in the genital 3 area and ovarian cancer, especially those in their 4 20S and 30S? 5 A I mean, I wouldn't fault somebody for 6 sharing information with women about anything 7 that's in the research. 8 I don't have an opinion that they -- 9 that women should be; in part, because I think 10 there are enough, you know, known and established 11 risk factors for all sorts of diseases, and this 12 isn't in that realm yet. 13 And, again, as you point out with this 14 statement, that there's a very small absolute 15 risk. So I just -- I think you have to balance 16 messaging to people. 17 Q I appreciate that. Thank you. Okay. 18 Let's go to some of the statistical procedures 19 that were followed by the O'Brien authors in 20 conducting their study. Let me show you and have 21 marked as Exhibit 27? 22 MR. TISI: 26. 23 MS. PARFITT: Exhibit 26. 24 (Diette Exhibit 26 was marked for</p>

<p style="text-align: right;">Page 230</p> <p>1 purposes of identification.)</p> <p>2 Q 26, Li Peng. And then 27 --</p> <p>3 THE REPORTER: You said pink?</p> <p>4 MS. PARFITT: Peng, P-E-N-G. And then</p> <p>5 the second one, which we'll have marked now as 27,</p> <p>6 is a paper by White and Royston, a 2009 paper.</p> <p>7 (Diette Exhibit 27 was marked for</p> <p>8 purposes of identification.)</p> <p>9 THE REPORTER: Two thousand --</p> <p>10 MS. PARFITT: 2009. And then the</p> <p>11 last, we will do this, too, hopefully, and then we</p> <p>12 will --</p> <p>13 MR. TISI: Here it is.</p> <p>14 Q I have Peng, Li. All right. First,</p> <p>15 Dr. Diette, have you reviewed prior to your</p> <p>16 deposition the Peng paper, it's Li Peng, along</p> <p>17 with Elizabeth Stuart and David Allison, entitled</p> <p>18 Multiple Imputation, A Flexible Tool for Handling</p> <p>19 Missing Data?</p> <p>20 A No.</p> <p>21 Q Okay. I will show you that for a</p> <p>22 moment.</p> <p>23 MR. TISI: I'm getting my steps in</p> <p>24 today.</p>	<p style="text-align: right;">Page 232</p> <p>1 with missing information?</p> <p>2 A No. I mean, that's a decision that</p> <p>3 the investigators have to make.</p> <p>4 Q Okay. So you agree that because</p> <p>5 multiple imputation is commonly used to impute</p> <p>6 missing data, that it's typically a more efficient</p> <p>7 way, efficient than complete case analysis and</p> <p>8 regression analysis when covariates have missing</p> <p>9 values?</p> <p>10 MS. LEHMAN: Object to form.</p> <p>11 A Yeah. I've heard people talk about</p> <p>12 that, but that's like biostats talking, and I</p> <p>13 don't know what "efficiency" means in that regard.</p> <p>14 Q Okay. So you can't really answer that</p> <p>15 question?</p> <p>16 A Correct.</p> <p>17 Q Okay. All right. What we can</p> <p>18 establish -- and I guess agree on -- that MI is a</p> <p>19 commonly used statistical tool to be used when a</p> <p>20 study data is missing data, fair?</p> <p>21 A It's often used. That's right.</p> <p>22 Q Okay. Now, there is multiple</p> <p>23 imputation, and there's -- as I understand it --</p> <p>24 something called single value imputation, correct?</p>
<p style="text-align: right;">Page 231</p> <p>1 MS. PARFITT: While you're looking at</p> <p>2 that, do you know Peng, Li?</p> <p>3 A No.</p> <p>4 Q Do you know Elizabeth Stuart?</p> <p>5 A Well, it's the same Elizabeth Stuart,</p> <p>6 so I don't know her personally.</p> <p>7 Q That's your Elizabeth Stuart at</p> <p>8 Johns Hopkins in the biostats division?</p> <p>9 A The new chair of biostats.</p> <p>10 Q How about David Allison, do you know</p> <p>11 him?</p> <p>12 A I do not.</p> <p>13 Q Okay. First, is missing data common</p> <p>14 in research?</p> <p>15 A It's very common.</p> <p>16 Q Okay. And is multiple imputation a</p> <p>17 common statistical method that's used for</p> <p>18 addressing missing data, in the course of</p> <p>19 research?</p> <p>20 A I would say it's common enough. I</p> <p>21 don't know how common. But it's a, you know, it's</p> <p>22 a well recognized procedure.</p> <p>23 Q Okay. Can we agree that when missing</p> <p>24 data occurs, it's important not to exclude cases</p>	<p style="text-align: right;">Page 233</p> <p>1 A That is right.</p> <p>2 Q Okay. Do you agree --</p> <p>3 And single value imputation is when</p> <p>4 you have -- you estimate what each missing value</p> <p>5 might have been and replace it with a single value</p> <p>6 in a dataset?</p> <p>7 A That's right.</p> <p>8 Q Okay. Do you agree that single value</p> <p>9 imputation is considered suboptimal to multiple</p> <p>10 imputation?</p> <p>11 A Yeah, I mean, I think, generally</p> <p>12 speaking, that is true. I think multiple</p> <p>13 imputation has become more valuable.</p> <p>14 Q Okay. And multiple imputation better</p> <p>15 handles missing data by estimating replacing --</p> <p>16 missing values, correct?</p> <p>17 A And lots of them and also --</p> <p>18 Q Over time?</p> <p>19 A Right. Yeah. So iteratively doing</p> <p>20 that.</p> <p>21 Q Okay. Because, as I appreciate it, it</p> <p>22 actually fills in -- you're actually filling in</p> <p>23 missing values kind of en masse; is that fair?</p> <p>24 A Yeah, I mean you can. I mean, you can</p>

<p style="text-align: right;">Page 234</p> <p>1 replace one variable or multiple variables, and  2 you can use a number of different other variables  3 in order to predict what those should be.  4 Q Okay. Would you agree that multiple  5 imputation provides an accurate estimate of  6 quantities, or associations of interest, in the  7 absence of having actual data?  8 A I would only agree that it can. I  9 mean it's not guaranteed to.  10 Q Okay.  11 A And it depends upon a lot of  12 assumptions.  13 Q Okay. Have you, yourself, used  14 multiple imputation?  15 A Yes. But I'll explain what I mean.  16 Is that too loud for you? I can get it. Give me  17 one second?  18 Q Okay.  19 A Should I answer?  20 Q Yes, please.  21 A Yes.  22 Q We're just trying to --  23 A You have to understand how, you know,  24 research works.</p>	<p style="text-align: right;">Page 236</p> <p>1 you what we will have marked as Exhibit Number 28,  2 I believe?  3 MR. TISI: No, it's 27.  4 MS. PARFITT: I did mark it.  5 MR. TISI: You did mark it. So this  6 is 27.  7 Q Dr. Diette, I will represent to you  8 that it is a paper entitled, Asthma in Older  9 Patients, Factors Associated with Hospitalization,  10 and it's authored by you, Gregory Diette, and some  11 other authors, correct?  12 A That's right.  13 Q Okay. Now, this was published -- and  14 I guess it was re-published -- first in the  15 American Medical Association and then the Archives  16 of Internal Medicine.  17 Do you understand that to be correct?  18 A I don't think so. You said -- I guess  19 we're trying to understand where it says  20 reprinted?  21 Q Right at the bottom.  22 A Yeah. I think that just means --  23 well, I'm not sure I know what it means, but it  24 was not re-published.</p>
<p style="text-align: right;">Page 235</p> <p>1 I've been the principal investigator  2 of studies, as well as programs with multiple  3 studies. And I've also been the data core and  4 data analysis lead on large programs as well.  5 And so, to the extent that, you know,  6 every research study that we do needs a plan to  7 begin with, which can include a strategy for how  8 we're going to handle missing data. Sometimes  9 it's created after.  10 But it's been routine for me to  11 participate in the discussions and then also make  12 decisions about, in terms of like who actually,  13 you know, types out the code. You know, that's  14 very often like a master's level, biostats person.  15 Q Okay. Fair.  16 A Just so you know. But like I can  17 do -- like I'm trained in how to, you know, use  18 different software packages, but I don't because  19 it's tedious, and there is other people that can  20 do it.  21 Like it's hard to be a principal  22 investigator of a study, manage everything, and  23 then also do the stuff that other people can do.  24 Q All right. Fair enough. Let me show</p>	<p style="text-align: right;">Page 237</p> <p>1 I mean, it was published once, and  2 this was an era when people still would get like  3 boxes full of paper things to hand out. So it may  4 refer to this being a reprint.  5 Q Okay.  6 A Like that somebody purchased from the  7 AMA, you know.  8 Q Okay. I was just trying to understand  9 that myself, so I appreciate that.  10 A Yes.  11 Q Now, are you familiar with this  12 article?  13 A I mean I know of it.  14 Q It takes you back, right?  15 A Well, it's 22 years ago so I would  16 have to spend some time --  17 Q Well, I'm very limited with my  18 questions on this.  19 A Okay.  20 Q This particular paper has nothing to  21 do with ovarian cancer and Talcum Powder, correct?  22 A Correct.  23 Q Okay. Now, in fact, I believe what  24 this paper is about -- and you can tell me better</p>



<p style="text-align: right;">Page 238</p> <p>1 than I can tell you -- but its objective was to  2 determine whether patterns of care were less  3 favorable for older than younger adults with  4 asthma, and to assess those patient  5 characteristics as to severity, and determine  6 whether there would be a higher rate of  7 hospitalization for older or younger people?  8 That is kind of my gist of it, my  9 layperson's.  10 A That's right.  11 Q Do I have it right?  12 A Yes.  13 Q Okay. Now, if you go to page 1125,  14 under "management of missing data for independent  15 variables," do you see that?  16 A I do.  17 Q Okay. So, in this research paper, you  18 were actually presented with approximately a  19 quarter of your respondents with missing data; is  20 that correct?  21 A I don't recall.  22 Q Look at the top. It says, the results  23 in this article are presented with substitutions  24 made for missing values. Approximately one</p>	<p style="text-align: right;">Page 240</p> <p>1 value, single variable imputation.  2 Then it goes on to say, "for variables  3 with at least 10 percent of responses missing, we  4 developed a data augmentation algorithm for  5 imputation with missing data based on multiple  6 conditional imputations."  7 Did I read that correctly?  8 A You did.  9 Q All right. So you, in this paper, in  10 addition to using single variable imputation, you  11 used multiple imputation as well?  12 A Correct.  13 Q Okay. So, you used both?  14 A That is correct.  15 Q All right. And then, after you  16 performed both your single variable imputation --  17 which has been at least referenced in some  18 articles as being suboptimal -- you did your  19 multiple variable imputation, and then did a  20 sensitivity analysis?  21 A Well, the suboptimal thing I don't  22 think really applies here. I mean, first of all,  23 if you look and see who the biostatistician was on  24 here --</p>
<p style="text-align: right;">Page 239</p> <p>1 quarter of the respondents had at least one  2 missing response.  3 A Oh, had at least one missing? Yeah,  4 which is very different than like a variable where  5 you're missing 25 percent.  6 Q Okay. All right. Now, it says that,  7 "for variables with missing responses from fewer  8 than 10 percent of the respondents, the missing  9 value was replaced with the median for continuous  10 or ordinal variables and mode for nominal  11 variables." Do you see that?  12 A I do.  13 Q That means that you employed a single  14 variable imputation for purposes of those missing  15 responses that were less than 10 percent; is that  16 correct?  17 A Yeah. For a low rate of missing-ness.  18 That's right.  19 Q All right.  20 THE REPORTER: Low rate of what?  21 A Low rate of missing-ness.  22 Q All right. So we know, one, that  23 during the course of this study, that you were  24 involved in and you employed the use of a single</p>	<p style="text-align: right;">Page 241</p> <p>1 Q I did.  2 A -- it's Francesca Dominici, who is,  3 you know, one of the world's leaders in  4 biostatistical method. She's brilliant.  5 And we were using, at the time -- it's  6 refreshing me because I'm seeing Francesca was  7 involved in this.  8 When there is low rate of  9 missing-ness, like less than 10 percent, it is  10 very efficient. And I'll use that word  11 "efficient," in order to employ something that is  12 very easy to use, and in particular because those  13 kind of variables we're replacing, the stakes were  14 low.  15 Q Okay.  16 A Like this would have been, you know,  17 this would have been not a key variable, not like  18 whether or not somebody used Talcum Powder in an  19 analysis for ovarian cancer.  20 And I just, I would like just to point  21 something else out, if I may, as we're looking at  22 the methods.  23 Q Doctor, can I just say one thing, and  24 only because of time?</p>

<p style="text-align: right;">Page 242</p> <p>1 A I won't say it.</p> <p>2 Q There is not a question pending.</p> <p>3 A I won't say it. I apologize.</p> <p>4 Q I appreciate that.</p> <p>5 A Okay.</p> <p>6 Q I'm sure your counsel can bring it up</p> <p>7 a little bit later.</p> <p>8 A Yes.</p> <p>9 Q And I appreciate the courtesy on that.</p> <p>10 I really do, and I'll try to extend it on your end</p> <p>11 as well.</p> <p>12 Okay. Other than this paper, do you</p> <p>13 have any recollection -- and by this paper I mean</p> <p>14 Exhibit Number 27, Asthma in Older Patients, have</p> <p>15 you continued to employ either single variable</p> <p>16 mutation -- imputation or multiple imputation, in</p> <p>17 your study work?</p> <p>18 A It depends upon the study, but, sure,</p> <p>19 yeah. We consider --</p> <p>20 Q You just do it?</p> <p>21 A -- different ways to do it.</p> <p>22 Q Okay. All right. Let's go to the</p> <p>23 O'Brien paper. I keep jumping back and forth to</p> <p>24 it.</p>	<p style="text-align: right;">Page 244</p> <p>1 says, "data on intimate care product use was</p> <p>2 sometimes contradictory or missing."</p> <p>3 And then it talks about using the</p> <p>4 quantitative bias analysis to implement different</p> <p>5 approaches for imputing exposure in women who</p> <p>6 initially reported never use, but did not complete</p> <p>7 the follow-up questionnaire. Do you see that?</p> <p>8 A I do.</p> <p>9 Q Okay. So, do you see that the authors</p> <p>10 of the O'Brien paper wrote into their article,</p> <p>11 a priori, that they would deal with missing data</p> <p>12 by the use of one of the techniques of multiple</p> <p>13 imputation?</p> <p>14 A I don't think the word "a priori"</p> <p>15 means much here.</p> <p>16 I mean, everything to a certain extent</p> <p>17 is a priori if you describe it a certain way,</p> <p>18 right?</p> <p>19 Like you can't do the analysis until</p> <p>20 you plan it. This doesn't say that they planned</p> <p>21 this -- when they went out and collected the new</p> <p>22 data -- you know, before they knew that there were</p> <p>23 missing data.</p> <p>24 Q You disagree that the authors wrote or</p>
<p style="text-align: right;">Page 243</p> <p>1 A Okay.</p> <p>2 Q I have to bring you home. Now, you've</p> <p>3 reviewed the paper and its contents?</p> <p>4 A I have.</p> <p>5 Q From my understanding of your</p> <p>6 testimony, you have put a lot of thought and</p> <p>7 analysis into your read of this paper, correct?</p> <p>8 A I have.</p> <p>9 Q Okay. Now, do you agree --</p> <p>10 Let's talk about what we can still</p> <p>11 agree and not agree upon. First, let's go with</p> <p>12 what we agree on --</p> <p>13 A Okay.</p> <p>14 Q -- that this multiple imputation was</p> <p>15 written into the study protocol, a priori?</p> <p>16 A I don't know that. I mean you can</p> <p>17 point me to something, I'm sure.</p> <p>18 Q Sure.</p> <p>19 A But I'm not sure about that.</p> <p>20 Q Okay. If you look at --</p> <p>21 If you look at, I believe it's</p> <p>22 statistical analysis, under statistical</p> <p>23 analysis --</p> <p>24 Excuse me, it's on page 3, and it</p>	<p style="text-align: right;">Page 245</p> <p>1 used a priori multiple imputation? Just yes or</p> <p>2 no?</p> <p>3 A I don't see the word, "a priori," and</p> <p>4 I don't think that is the proper term to use for</p> <p>5 this paper.</p> <p>6 Q Okay. Do you agree with the authors</p> <p>7 as well, that the fact that there was missing data</p> <p>8 can be overcome by tools, such as the authors</p> <p>9 employed in the O'Brien study, and like you</p> <p>10 employed in your asthma study?</p> <p>11 A It can be. It doesn't mean it will</p> <p>12 be, but it can be.</p> <p>13 Q Okay. And by -- I think we talked</p> <p>14 about this a little bit earlier.</p> <p>15 But by the authors increasing the</p> <p>16 number of cases, incident cases, that was intended</p> <p>17 and would have the effect of increasing study</p> <p>18 power?</p> <p>19 A Yes.</p> <p>20 Q Okay. Look over on page 4 under</p> <p>21 statistical analysis. Are you there?</p> <p>22 A I am.</p> <p>23 Q Okay. It said, "we first compared</p> <p>24 covariate distributions across categories of</p>

<p style="text-align: right;">Page 246</p> <p>1 intimate care product use."</p> <p>2 "After excluding women, missing key</p> <p>3 covariates, and imputing missing exposure, we used</p> <p>4 the multiple variable Cox proportional-hazards</p> <p>5 model with age as the time scale to estimate</p> <p>6 hazard ratios, HRs."</p> <p>7 Does that help recollection, help</p> <p>8 refresh your recollection with regard to the</p> <p>9 authors planning to use imputation --</p> <p>10 A No.</p> <p>11 Q -- for substitution of missing data?</p> <p>12 A I'm sorry, no. I didn't mean to</p> <p>13 answer --</p> <p>14 Q That is all right.</p> <p>15 A No, it doesn't, and it's a misuse of</p> <p>16 the concept of a priori.</p> <p>17 This is borrowing something from</p> <p>18 O'Brien 2020, where they're saying that their</p> <p>19 patent, you know, analysis was a priori.</p> <p>20 I mean every analysis is a priori.</p> <p>21 They're just trying to highlight they thought that</p> <p>22 was important.</p> <p>23 What I'm saying here is, you can't do</p> <p>24 the analysis until you plan it. So, unless you</p>	<p style="text-align: right;">Page 248</p> <p>1 A I do.</p> <p>2 Q Okay. And it says, ovarian cancer</p> <p>3 never and ever used.</p> <p>4 Do you see that?</p> <p>5 A I do.</p> <p>6 Q All right. And do you see the hazard</p> <p>7 ratio that the authors found for ever use or never</p> <p>8 use of Talcum Powder was 1.82 with a confidence</p> <p>9 interval of 1.36 to 2.43. Do you see that?</p> <p>10 A I do.</p> <p>11 Q Okay. And then, you understand that</p> <p>12 the authors then took that hazard ratio for</p> <p>13 scenario 4 and adjusted it for recall bias,</p> <p>14 correct?</p> <p>15 A Yeah, if there is such a thing. I</p> <p>16 mean, you can examine scenarios with recall bias.</p> <p>17 I'm not sure adjusting is actually something that</p> <p>18 happens.</p> <p>19 Q Okay. But you saw that the authors of</p> <p>20 O'Brien 2024 did address and made correction for</p> <p>21 recall bias and exposure misclassification.</p> <p>22 You saw that in the study, correct?</p> <p>23 A I saw an attempt to account for it,</p> <p>24 but I think that they provided scenarios where</p>
<p style="text-align: right;">Page 247</p> <p>1 can change time, you know, and go backwards or</p> <p>2 forward at will, everything is a priori, but it's</p> <p>3 a meaningless concept here.</p> <p>4 Q Okay. Now, having worked through, and</p> <p>5 by that I mean, worked through this statistical</p> <p>6 analysis, which I believe they referred to as QBA,</p> <p>7 which would be quantitative bias analysis -- do</p> <p>8 you see that?</p> <p>9 A I do.</p> <p>10 Q -- the authors came up with four</p> <p>11 different scenarios for evaluation of the data,</p> <p>12 correct?</p> <p>13 A They did.</p> <p>14 Q Okay. And one of the scenarios that</p> <p>15 the authors utilized was a scenario 4, which was</p> <p>16 contradictory data, plus multiple implications.</p> <p>17 Do you remember reading that?</p> <p>18 A I do.</p> <p>19 Q Okay. Let me direct your attention to</p> <p>20 table 2. Are you there?</p> <p>21 A Yes.</p> <p>22 Q Okay. And, if you look over at the</p> <p>23 far right column under scenario 4, it has ovarian</p> <p>24 cancer. Do you see that?</p>	<p style="text-align: right;">Page 249</p> <p>1 they looked at different assumptions and saw what</p> <p>2 their estimated effect of recall bias would be.</p> <p>3 Q Okay. And when they did do this</p> <p>4 calculation to correct for recall bias error,</p> <p>5 non-differential misclassification, they came up</p> <p>6 with a hazard ratio of 1.41; is that correct?</p> <p>7 A I don't remember every hazard ratio.</p> <p>8 I'm looking at one on figure 2 that showed --</p> <p>9 which is an example -- where there was a</p> <p>10 25 percent recall bias assumption which is 1.41.</p> <p>11 Q Okay. Now, you disagree -- let me try</p> <p>12 to ferret it out.</p> <p>13 Do you disagree that scenario 4 is the</p> <p>14 best estimate of a true association, in the</p> <p>15 absence of recall or other unknown biases?</p> <p>16 A Oh, a hundred percent.</p> <p>17 Q Okay. You disagree with that? I just</p> <p>18 want to find out where we disagree.</p> <p>19 A Yes.</p> <p>20 Q Now, you understand that the authors</p> <p>21 of this study, O'Brian, Sandler, et cetera,</p> <p>22 submitted their works, their analysis, their</p> <p>23 statistical analyses, their sensitivity analysis</p> <p>24 to two different sets of reviewers, not only the</p>

<p style="text-align: right;">Page 250</p> <p>1 Journal for Clinical Oncology but also to NIH, 2 correct? 3 A Yes, as we discussed before. 4 Q Okay. 5 MS. LEHMAN: Counsel, I don't mean to 6 interrupt you, but I just want to put you on 7 notice that we have 10 minutes left on the four 8 hours. 9 Q Perfect. So, the authors submitted 10 their study findings -- which we've just discussed 11 what they were -- to two different reviewers, one, 12 the National Institutes of Health, correct? 13 A That's right. 14 Q And the other, the Journal for 15 Clinical Oncology. This study was published back 16 on May 15th, 2024. 17 Have you seen any Letters to the 18 Editor or anyone -- 19 Well, first, have you seen any letters 20 to the editors in response to O'Brien 2024, other 21 than the editorial by Harris that we talked a 22 little bit earlier? 23 A Well, it's not other than, right, 24 because it's a different format.</p>	<p style="text-align: right;">Page 252</p> <p>1 2024, and the methodology that they employed, was 2 something that you have concerns about -- 3 MS. LEHMAN: Object to the form. 4 MS. PARFITT: -- and are puzzled by? 5 A No. 6 Q Did you do any calculations that you 7 brought today, with regard to any of the study 8 data that was published in O'Brien 2024? 9 A I don't think so. The only thing that 10 might fit that is, I had thought you -- by asking 11 a question about one of the numbers in my report 12 where I said that it was as much as an 89 percent 13 increase, based on recall bias or something like 14 that -- I thought that you would want to know how 15 I got there? 16 Q Did you put -- is that in some of the 17 papers that you have there? 18 A Yes. 19 Q I can look at that later. 20 A I didn't do the calculation. I just 21 literally put the table that it comes from, so 22 that I could recreate it if we need to in 23 real-time. 24 Q Okay.</p>
<p style="text-align: right;">Page 251</p> <p>1 But I haven't seen any, and I don't 2 see how you could because there isn't enough time 3 to have, you know, written one and have it been 4 published and so forth. 5 Q Well, you're very critical, from your 6 review of your report -- in your report, of the 7 methods employed by the O'Brien authors. 8 Have you planned to write a letter to 9 the editor or have published an editorial where 10 you set forth -- as you have in your report on 11 pages 10 through 13 -- your criticisms of the 12 authors' work? 13 A I don't write letters to the editor. 14 I mean, I'm not about to start now, but I don't. 15 There is like absolutely zero academic value, and 16 so I don't plan to. 17 Q Okay. All right. So, one: We know 18 that you do not plan to write any letter to the 19 editor? 20 Do you intend to -- other than an 21 expert report, for which you've been paid for by 22 J&amp;J to write -- do you have any plan of writing to 23 the authors -- or any form of writing -- to set 24 forth to the scientific community that O'Brien</p>	<p style="text-align: right;">Page 253</p> <p>1 A And that is on my copy of my report. 2 Q Okay. That's fair enough. Thank you. 3 I appreciate that. Thank you. 4 MR. TISI: Just to be clear, is that 5 in the stack of stuff? 6 A It's in this binder. 7 MR. TISI: Can we have that marked, 8 because I mean I only had the packet of stuff that 9 you brought as Exhibit 4, so we will make that 10 Exhibit Numbers 27 -- no, 28. 11 (Diette Exhibit 28 was marked for 12 purposes of identification.) 13 Q Okay. And, Dr. Diette, let me ask you 14 just a couple of questions. 15 A Sure. 16 Q Are you going to be giving opinions in 17 this case with regard to causation between vulva, 18 cervical, or vaginal cancers and Talcum Powder? 19 A Vulva or cervical? I don't -- I don't 20 plan to. I mean, I'm not aware if there are any 21 issues there. 22 Q And is it fair to say that you intend 23 to not give an opinion with regard to causation on 24 uterine cancer either, at the trial of this case?</p>

<p style="text-align: right;">Page 254</p> <p>1 A Yeah. I don't know of that being an 2 issue. 3 MS. PARFITT: All right. I'm going to 4 step, and give my counsel -- who is representing 5 New Jersey here -- a few minutes to ask, while I 6 check my notes real quickly. 7 MR. TISI: I just have four or five 8 questions. 9 A Sure thing. 10 EXAMINATION BY MR. TISI 11 Q My name is Chris Tisi. Do you have 12 any reason to think -- 13 MS. PARFITT: Chris, you may need to 14 come closer here. 15 MR. TISI: What? 16 MS. PARFITT: You need to come closer. 17 MR. TISI: I will just speak loudly. 18 A That works for me. It's up to you. 19 Q Do you have any reason -- 20 With respect to any of the O'Brien 21 authors of 2025, do you have any reason to 22 believe, factually, that they were in any way 23 biased or had any undue influence when they wrote 24 that paper?</p>	<p style="text-align: right;">Page 256</p> <p>1 Q Okay. We don't know how IARC is going 2 to reach their decision. They may have reached 3 this decision while we were in here today. 4 Do you have any reason to believe that 5 the people involved in the IARC discussion are 6 biased in any way? 7 A I would only say, again -- well, I 8 don't know of most of them. We pointed out a 9 couple of them together that are investigators. 10 Q Right. 11 A And I think investigators bring a 12 perspective, and I'm not saying like an unhealthy 13 bias or an untoward one, but I think there is a 14 prospective. 15 I think investigators are motivated to 16 highlight their work and to get credit for it, so, 17 I think some of that may well filter into it. 18 Q Do you think that -- do you think -- 19 Were any of the authors for the 20 O'Brien study paid by either the plaintiff or 21 defendant in this litigation? 22 A I've not seen any disclosures, in any 23 of the papers, that that's so. 24 Q Did you see whether --</p>
<p style="text-align: right;">Page 255</p> <p>1 A I'll answer as carefully as I can, 2 because I think the way you asked it, it implies 3 something nefarious, you know, which is, I think, 4 what you might be asking about. 5 Undue influence? I would have no 6 idea. Bias, you know, bias is a word that is kind 7 of loaded. 8 I think every investigator has a 9 perspective, which I would use instead of the word 10 bias. And, you know, people have a hypothesis for 11 a study. 12 They're motivated to find what that 13 is. So I think, you know, all investigators put a 14 lot of energy and hope into finding what it is 15 that they set out to. 16 But it wouldn't be like undo 17 influence. It would be a normal part of doing the 18 research. 19 Q Let me be just really clear. Do you 20 have any reason to believe that they conducted an 21 analysis to reach a predetermined result? 22 MS. LEHMAN: Object to the form. 23 A I don't have any information about 24 that.</p>	<p style="text-align: right;">Page 257</p> <p>1 Do you recognize any of the names in 2 the IARC list that you were provided as having 3 been people who were paid by either plaintiff or 4 defendant? 5 A I don't, but I don't know that they 6 did or did not. 7 Q Are you willing to accept -- if IARC 8 were to come down and say, this is a probable 9 carcinogen -- are you willing to accept that 10 result? 11 MS. LEHMAN: Object to the form. 12 A I would want to see the report because 13 I think the -- you know, the details matter a lot 14 in how they arrived at that. 15 MR. TISI: I don't have any more 16 questions. Thank you. 17 A Sure. 18 MS. PARFITT: Dr. Diette, let me just 19 confer with him. I'm going to confirm whether we 20 have an extra day or not an extra day. 21 (There was a break in the proceedings 22 at 2:25 p.m/ and testimony resumed at 2:28 p.m.) 23 MR. TISI: We are just clarifying 24 exhibit numbers. Exhibit Number 27 is "Asthma in</p>



<p style="text-align: right;">Page 258</p> <p>1 Older Adults by Diette, et al., from 2002."</p> <p>2 And Exhibit Number 28 -- which we're</p> <p>3 re-marking -- is the MDL Diette Report Binder.</p> <p>4 MS. LEHMAN: We can't tell exactly,</p> <p>5 but this may be one of the articles that had been</p> <p>6 left off and so it was added.</p> <p>7 MS. PARFITT: So we did not mark this</p> <p>8 one?</p> <p>9 MS. LEHMAN: I should say in the</p> <p>10 appendix.</p> <p>11 MS. PARFITT: Got you. Okay.</p> <p>12 MS. LEHMAN: We're struggling to sort</p> <p>13 of tell, but I just --</p> <p>14 MS. PARFITT: Okay.</p> <p>15 MS. LEHMAN: -- in disclosure. And</p> <p>16 that's part of the compilation that you guys</p> <p>17 marked as Exhibit Number 4.</p> <p>18 MS. PARFITT: Okay.</p> <p>19 MR. TISI: Michelle, would you mind,</p> <p>20 since I'm looking at this, would you mind if I</p> <p>21 just ask him questions about his calculations? Do</p> <p>22 you mind?</p> <p>23 MS. LEHMAN: No. You're New Jersey.</p> <p>24 MR. TISI: Do you mind if I just do</p>	<p style="text-align: right;">Page 260</p> <p>1 Q I see.</p> <p>2 A So, page 11, at the very top, I said,</p> <p>3 based on this study finding, the effective recall</p> <p>4 bias was just -- was as much as an 89 percent</p> <p>5 increase in reported talc use; and I only just</p> <p>6 wrote, Table A2, because that is where the</p> <p>7 information came from --</p> <p>8 Q Got you.</p> <p>9 A -- to get to the 89 percent.</p> <p>10 MR. TISI: I appreciate that. That's</p> <p>11 all that I need. Thank you for your indulgence on</p> <p>12 that, Katie.</p> <p>13 EXAMINATION BY MS. PARFITT</p> <p>14 Q Dr. Diette, actually just a couple</p> <p>15 cleanup here.</p> <p>16 When I reviewed your report on</p> <p>17 page 10, where you actually discuss O'Brien 2024,</p> <p>18 I note you put "footnote," and that's page 10 in</p> <p>19 your report. That's your 2024 report.</p> <p>20 I note you indicate, in footnote,</p> <p>21 O'Brien, at page -- or, excuse me, footnote 38.</p> <p>22 Do you see that?</p> <p>23 A I do.</p> <p>24 Q Okay. Look at the bottom, and it</p>
<p style="text-align: right;">Page 259</p> <p>1 this?</p> <p>2 MS. LEHMAN: No. Go ahead.</p> <p>3 EXAMINATION BY MR. TISI</p> <p>4 Q In your report, Exhibit Number 28,</p> <p>5 your binder, you said that there were calculations</p> <p>6 that you had done on your report.</p> <p>7 I see a blue sticky on page 10 of your</p> <p>8 2024 report, but I don't see any handwriting. Is</p> <p>9 there anything -- am I missing something?</p> <p>10 A Yes.</p> <p>11 Q Okay.</p> <p>12 A So, the sticker means nothing. It's</p> <p>13 just something that was on there for a minute when</p> <p>14 I was doing something, but it doesn't represent</p> <p>15 anything.</p> <p>16 You need to find the text where I'm</p> <p>17 discussing O'Brien 2024, and I think it's in the</p> <p>18 early part of that, the early part of the O'Brien</p> <p>19 stuff. I can show you.</p> <p>20 Q Sure, if you don't mind. This way we</p> <p>21 have a record of where it is. I just didn't see</p> <p>22 any handwriting on there.</p> <p>23 A There is no calculation. I'll tell</p> <p>24 you what I wrote there.</p>	<p style="text-align: right;">Page 261</p> <p>1 says, 1 through 15, and that is how it's listed,</p> <p>2 I'll represent to you in your references.</p> <p>3 Did O'Brien -- it's not limited to</p> <p>4 pages 1 through 15. There are supplemental</p> <p>5 tables.</p> <p>6 Did you also review the supplemental</p> <p>7 tables to O'Brien 2024?</p> <p>8 A I did, but I think, just to clarify,</p> <p>9 if this says 00:1 to 15.</p> <p>10 Q Right.</p> <p>11 A This was probably as it was released</p> <p>12 rather than the final journal page numbers.</p> <p>13 So, I'm imagining that's what it was.</p> <p>14 It was just what was available on whatever I could</p> <p>15 print out at that time.</p> <p>16 Q I think that was a clarification.</p> <p>17 You're aware that there was an appendices, and</p> <p>18 there were some additional tables?</p> <p>19 A Yes.</p> <p>20 Q My question to you, I just want to</p> <p>21 make sure for the record that I asked you whether</p> <p>22 or not you also reviewed those tables?</p> <p>23 A A hundred percent.</p> <p>24 Q Okay. The other item, with regard to</p>

<p style="text-align: right;">Page 262</p> <p>1 a general causation opinion is, last night, both  2 Kate and, I guess, received an updated appendix to  3 supplement the appendix that you had previously  4 attached to your May 28th, 2024 report.  5 I have no questions to ask about it,  6 except to have it marked as the next exhibit,  7 which I believe now is 29. And the only question  8 is, did you prepare the updated appendix?  9 A No.  10 Q Okay. Who would have done that?  11 A It would have been somebody at Medical  12 Science Affiliates.  13 Q Okay. No one from J&amp;J?  14 A Oh, no, no. No, I mean these  15 documents come from, they're on my behalf but from  16 Medical Science Affiliates.  17 Q Since 2019, Medical Science does not  18 work for J&amp;J. Is that fair?  19 A I don't -- I'm not sure what that  20 means.  21 Q I'm going to make it clear.  22 Since 2019, do you have any reason to  23 believe that Medical Science is a contractor for  24 Johnson &amp; Johnson, for services?</p>	<p style="text-align: right;">Page 264</p> <p>1 plaintiffs." Do you see that?  2 A I do.  3 Q Did I read that correctly?  4 A Yes.  5 Q Okay. Are you giving case specific  6 testimony in the trial, in the MDL trial?  7 A I think so. I mean, well, I don't  8 know if I'll be asked to; but, if I did, it would  9 include my interpretation of those films that I  10 was describing.  11 Q All right. Let's spend a little bit  12 of time to talk about that.  13 A Sure.  14 Q And I'll represent, in your State  15 Court report as well -- that was produced on  16 May 28th, 2024 -- you also have a very similar, if  17 not the same paragraph regarding your review of  18 the available radiology films for the Carl and  19 Balderrama cases?  20 A Correct.  21 Q And you can check your report, if you  22 want to check my facts.  23 A No. No. I know it's there.  24 Q Okay. So, attached to your report as</p>
<p style="text-align: right;">Page 263</p> <p>1 A Oh, not that I'm aware of.  2 Q Okay. Do you know if they do work  3 directly for J&amp;J?  4 A I have no idea.  5 MS. PARFITT: I would like to have  6 this marked as Exhibit 29.  7 (Diette Exhibit 29 was marked for purposes  8 of identification.)  9 Q All right. Dr. Diette, in addition to  10 the testimony this morning with regard to your  11 opinions, I'm going to direct you to your report  12 and specifically to page 3 of your report.  13 Tell me when you get there?  14 A I'm there.  15 Q Two additional opinion summaries  16 include bullet, the second to the last bullet  17 which says, "I have reviewed the available  18 radiology films and related records outlined in  19 Appendix B of this report."  20 "And, based on my experience as a  21 pulmonologist, there is no evidence of markers of  22 asbestos exposure, such as pleural plaques,  23 diffuse pleural thickening or asbestosis in the  24 available films for any of the six Bellwether</p>	<p style="text-align: right;">Page 265</p> <p>1 an exhibit, that has a listing of radiology  2 studies in compact disks for the five, excuse me,  3 or six Bellwether cases selected in the MDL. Did  4 you see that?  5 A I do.  6 Q Okay. And they include Rausa,  7 Bondurant, Carter Jenkins, Newsome, Ilardo.  8 There is one more, if I have them  9 right, and then there are the two new Jersey cases  10 of Carl and Balderrama. Do you see that?  11 A I do.  12 Q Okay. So, from your report, it states  13 that you've reviewed the available radiology films  14 and related records outlined in Appendix B.  15 What opinion do you intend to give  16 with regard to your review of the radiology films,  17 case specific?  18 A I think it's the same for all eight  19 plaintiffs that we're discussing, which is that I  20 could not identify any objective markers of  21 asbestos exposure on chest imaging; including, you  22 know, pleural plaques, calcified pleural plaques,  23 diffuse pleural thickening or asbestosis.  24 Q Okay. Have you looked at the actual</p>

<p style="text-align: right;">Page 266</p> <p>1 pathology of the ovarian tissue for each one of 2 those individuals? 3 A Not for anyone. 4 Q All right. Not for any of them? 5 A Not for any. 6 Q Okay. So, and you're not a 7 pathologist? 8 A Correct. 9 Q And so, as I understand your 10 testimony, you don't have any plans of coming into 11 a court of law and testifying with regard to the 12 pathology results of the ovarian cancer specimens 13 for any of the Bellwether cases, State or Federal? 14 A Correct. I have nothing to say about 15 that. 16 Q Do you know of any study which uses 17 lung radiology as a surrogate for exposure to 18 asbestos in the ovaries? 19 A No. 20 Q So, what you looked at were lung 21 radiology, for the purposes of simply determining 22 whether or not there was evidence of asbestos 23 exposure, such as pleural plaques, pleural 24 thickening and asbestosis, correct?</p>	<p style="text-align: right;">Page 268</p> <p>1 did -- 2 Q I would love to know why you looked at 3 lung films for a case that involves Talcum Powder 4 exposure -- 5 A Yeah. 6 Q -- and ovarian cancer? 7 A I'll explain it. 8 Q I appreciate that. 9 A I've gone back and looked at, for 10 example, the IARC monograph on asbestos and 11 ovarian cancer. 12 And then I've looked at the papers 13 that are the underpinnings for that particular 14 effort, and then I've also looked at some papers 15 since then. 16 And some, but not most or all, have 17 included causes of death of women in those studies 18 that not only included ovarian cancer but also 19 included asbestosis. 20 So, to me, at least in the studies 21 that have shown a potential risk of asbestos 22 exposure in ovarian cancer, it suggested to me 23 that it would be a dose that was compatible with 24 what causes asbestosis.</p>
<p style="text-align: right;">Page 267</p> <p>1 A Yeah. I was trying to corroborate 2 with what I saw in the literature about women and 3 asbestos and ovarian cancer. 4 Q What about the status or what about 5 the results of any ovarian pathology? Strike 6 that. 7 From your review of lung pathology, 8 what did you expect to find about ovarian 9 pathology? 10 A So I didn't -- I didn't see any lung 11 pathology. Is that what you mean? I didn't see 12 any like specimens, right, like biopsy specimens. 13 Q Right. But you did review films. 14 So, I guess the question is, in 15 reviewing the radiology films, what evidence did 16 you expect to find, from a review of radiology 17 films of the chest, that would -- that would 18 inform you about Talcum Powder or asbestos in the 19 tissue of the ovaries of a woman? 20 A So, I could answer that until you 21 said, "in the tissue of," because I don't have any 22 idea whether one should expect to find asbestos in 23 the tissue in ovaries. So that wasn't my point. 24 Do you want me to just say why I</p>	<p style="text-align: right;">Page 269</p> <p>1 So, I was looking primarily for 2 asbestosis. But, since I was looking, I would 3 look for any other indicators of asbestos 4 exposure. 5 Q All right. So you're not offering 6 opinions here today related to whether or not any 7 changes in ovarian tissue, are as a result of 8 their exposure to asbestos and fibrous talc? 9 A No. It would only pertain to a 10 potential dose that one could have encountered 11 that could produce asbestosis, for example, that 12 might be indicative of a dose that is sufficient 13 to cause ovarian cancer, if it does. 14 Q Okay. And is it fair to say that 15 whatever you have listed in your appendices with 16 regard to your examination of studies, is the 17 entirety of what you had available to perform that 18 examination? 19 A It's the entirety of what I've 20 received. We're talking about like the radiology 21 disks? 22 Q Correct. 23 A Yes. That is the entirety. 24 Q And is it fair to say that you don't</p>

<p style="text-align: right;">Page 270</p> <p>1 have any information concerning the exposure of 2 any of these women to asbestos in Talcum Powder; 3 is that correct? 4 A Correct. 5 Q So, no one provided you with that 6 information? 7 A No. 8 Q So, you have no information with 9 regard to the frequency or duration of Talcum 10 Powder use by any of the Bellwether women? 11 A I don't. But let me just clarify 12 by -- do I have information? 13 I think I saw some deposition 14 transcripts that were provided to me, but I didn't 15 read any of them. So there may be -- I may 16 possess information, but I've chosen not to look 17 at it. 18 Q Okay. And so, for purposes of 19 today -- which is my opportunity to examine you 20 with regard to opinions -- it's fair to say that 21 you have not and will not be considering any 22 evidence with regard to the exposure of the 23 Bellwether women to either Talcum Powder and/or 24 asbestos, correct?</p>	<p style="text-align: right;">Page 272</p> <p>1 EXAMINATION BY MR. TISI 2 Q Let me ask you a hypothetical, kind of 3 the flip side of that. 4 Let's say that you had looked at the 5 radiology or perhaps even seen pathology of the 6 lung, and seen evidence of asbestos exposure in a 7 patient with ovarian cancer. 8 Hypothetically, if that were the case, 9 would that convince you that -- in the absence of 10 any documented exposure from any other source of 11 asbestos -- that it would be, more likely than 12 not, the talc would be the cause of the ovarian 13 cancer? 14 MS. LEHMAN: Object to the form. 15 A Not all by itself. 16 Q So, if the woman -- again, 17 hypothetically, if a woman had no evidence of any 18 other exposure, other than using talc for 19 30 years, and there was evidence of pleural 20 plaques or thickening -- or even if you had biopsy 21 results of the lung that showed evidence of 22 asbestosis or mesothelioma -- but they also had 23 ovarian cancer of the type that, epithelial 24 ovarian cancer, would you put talc exposure, as a</p>
<p style="text-align: right;">Page 271</p> <p>1 A Correct. 2 Q And you would agree with me that 3 researchers do not look at radiology studies of 4 the lung, in order to ascertain whether or not 5 there is -- there could be the presence of talc, 6 talc fibers, asbestos, in the ovaries? 7 A I've not seen anything at all like 8 that. 9 Q And there is nothing in the literature 10 about that; is that right? 11 A I would be shocked if there were. 12 Q And, when you looked at the lung 13 pathology for these women to discern whether there 14 was evidence of pleural plaques, diffuse pleural 15 thickening, were there any other markers that you 16 were relying upon to educate you? 17 MS. LEHMAN: Object to the form. 18 A Well, I also meant asbestosis, so I 19 would have been looking for, you know, pulmonary 20 fibrosis, particularly in a UIP or usual 21 interstitial pneumonitis pattern. 22 MS. PARFITT: Okay. Let's take a 23 moment. Let me consult with my New Jersey 24 attorney.</p>	<p style="text-align: right;">Page 273</p> <p>1 physician, in the differential as to the potential 2 cause of that woman's cancer? 3 MS. LEHMAN: Objection to form. 4 THE REPORTER: As to what cause? 5 Q The potential cause as to the woman's 6 cancer, ovarian cancer? 7 A Not based on any of the talcum-based 8 products that I'm aware of. 9 Q So, either way, if there is no 10 evidence of any findings in the lungs, you would 11 say that there is no evidence of -- that the woman 12 would not have a contingent for ovarian cancer? 13 And, if there was evidence of problems 14 in the lungs, even by radiology, you would say the 15 woman has no -- no ovarian cancer that would be 16 related to talc? 17 So, either way, no matter what you 18 look at, it wouldn't make any difference -- 19 MS. LEHMAN: Object to the form. 20 Q -- because you don't think that talc 21 causes ovarian cancer? 22 MS. LEHMAN: Object to the form. 23 A Well, there was a lot in your 24 question. I'll try to paraphrase it and try to</p>

<p style="text-align: right;">Page 274</p> <p>1 answer you.</p> <p>2 Q Yeah.</p> <p>3 A So, it wouldn't help you, right, no</p> <p>4 matter what I saw. But it could help me to</p> <p>5 articulate something.</p> <p>6 As an example, let's say that somebody</p> <p>7 had a high amount of asbestos bodies, with long</p> <p>8 fibers; there was a crocidolite finding that was</p> <p>9 well above background or whatever is expected, and</p> <p>10 it was clear to say, a pathologist, that this was</p> <p>11 a significant, substantial, crocidolite exposure;</p> <p>12 and then, especially if you had markers.</p> <p>13 If you had asbestosis, it would be</p> <p>14 hard to not put together the heavy crocidolite</p> <p>15 findings, along with asbestosis, to say they have</p> <p>16 something to do with each other.</p> <p>17 I would not have the opinion that it</p> <p>18 comes from talc-based products, because I haven't</p> <p>19 seen any evidence that crocidolite is even one of</p> <p>20 the fiber types.</p> <p>21 Q So, let's take it one step further.</p> <p>22 A Yes.</p> <p>23 Q Let's say that you had, again</p> <p>24 hypothetically, that you had evidence of pleural</p>	<p style="text-align: right;">Page 276</p> <p>1 (Overlapping speakers.)</p> <p>2 A I'm aware of that.</p> <p>3 Q Right.</p> <p>4 A I just don't know if that's a dose</p> <p>5 that's sufficient --</p> <p>6 Q A single --</p> <p>7 A -- to induce a tumor.</p> <p>8 THE REPORTER: Hold on. If that's a</p> <p>9 dose what?</p> <p>10 A To induce a tumor.</p> <p>11 Q A single fiber is about the lowest</p> <p>12 dose you can get, right? I mean, how much, how</p> <p>13 much less asbestos could you have than a single</p> <p>14 fiber?</p> <p>15 MS. LEHMAN: Object to the form.</p> <p>16 A Well, than one -- one absorbed fiber.</p> <p>17 We are talking about absorbed dose, right, because</p> <p>18 it's tissue -- it's in tissue.</p> <p>19 Q Right. So, really, I mean there is no</p> <p>20 amount of asbestos you could find in a woman's</p> <p>21 ovary that would convince you in any way -- under</p> <p>22 any circumstances that -- that exposure to talc</p> <p>23 containing asbestos might be, might be in the</p> <p>24 differential for that patient?</p>
<p style="text-align: right;">Page 275</p> <p>1 thickening or plaques in the lungs; and then you</p> <p>2 also looked at the ovaries and there was, there</p> <p>3 were asbestos fibers in the ovaries, and you had</p> <p>4 that as well?</p> <p>5 If you added that to the hypothetical,</p> <p>6 would that in any way change your view, not as to</p> <p>7 cause but whether, at least, it would be</p> <p>8 reasonable to include exposure to peroneal talc as</p> <p>9 a -- as part of the differential for that woman's</p> <p>10 ovarian cancer?</p> <p>11 A It wouldn't -- it wouldn't inform me,</p> <p>12 in part because I don't know what to expect in</p> <p>13 ovarian pathology, period, right? So I don't know</p> <p>14 what the expectations are.</p> <p>15 I've not seen a paper or any sort of</p> <p>16 scientific statement that says that, there's a</p> <p>17 dose of asbestos -- if it's found in ovaries -- is</p> <p>18 an indicator that that's a potential cause, in the</p> <p>19 way that I've seen it, for example, for lung</p> <p>20 cancer attribution, you know, and asbestos.</p> <p>21 Q Well, you do know that a single fiber</p> <p>22 of asbestos can cause changes, cellular changes</p> <p>23 that start the process of carcinogenesis, right?</p> <p>24 MS. LEHMAN: Object to the form.</p>	<p style="text-align: right;">Page 277</p> <p>1 MS. LEHMAN: Object to the form.</p> <p>2 Misstates testimony.</p> <p>3 A I don't have the expertise to comment</p> <p>4 on ovarian pathology.</p> <p>5 Q Okay. Or even lung pathology? If</p> <p>6 they had no --</p> <p>7 If, hypothetically, they had no</p> <p>8 exposure to anything else, they've lived in a</p> <p>9 bubble their whole life, except that they used</p> <p>10 Talcum Powder -- and you saw evidence of plaquing,</p> <p>11 plaquing in the lungs, and their only exposure was</p> <p>12 daily use of Talcum Powder for 30 years -- and</p> <p>13 they had epithelial ovarian cancer, and they had</p> <p>14 it -- you would still say, there is absolutely, no</p> <p>15 way, that that case would have caused -- not even</p> <p>16 "caused," but that it would be on the</p> <p>17 differential?</p> <p>18 MS. LEHMAN: Object to the form.</p> <p>19 A I don't see how you get there. There</p> <p>20 is so much missing from that, to be honest, like</p> <p>21 there is just a lot of factors that are missing.</p> <p>22 Q I'm totally okay with that answer.</p> <p>23 Thank you very much.</p> <p>24 A Of course.</p>

70 (Pages 274 - 277)



<p style="text-align: right;">Page 278</p> <p>1 MR. TISI: That's it.</p> <p>2 MS. PARFITT: Well, let me check with</p> <p>3 my counsel real quick.</p> <p>4 (A discussion was held off the</p> <p>5 record.)</p> <p>6 MS. LEHMAN: Are you done?</p> <p>7 MS. PARFITT: I'm done. Dr. Diette,</p> <p>8 let me take the opportunity. I thank you for your</p> <p>9 patience today.</p> <p>10 Despite all of our other technological</p> <p>11 issues, I thank you, and that completes our</p> <p>12 portion of the deposition.</p> <p>13 A Thank you very much.</p> <p>14 EXAMINATION BY MS. LEHMAN</p> <p>15 Q I have just few follow-up.</p> <p>16 Dr. Diette, does your MDL Report set</p> <p>17 out the opinions that you hold with respect to</p> <p>18 uterine, cervical and other gynecologic cancers?</p> <p>19 A It includes uterine. I don't think</p> <p>20 that I created a section on cervical.</p> <p>21 Q But the opinions that you hold are</p> <p>22 outlined in your report, correct?</p> <p>23 MS. PARFITT: Objection.</p> <p>24 A Regarding uterine, yes.</p>	<p style="text-align: right;">Page 280</p> <p>1 imputation didn't create a substantial increase or</p> <p>2 decrease in the risk, which is completely the</p> <p>3 opposite, because O'Brien and company were</p> <p>4 perfectly happy to have the risk go well in the</p> <p>5 opposite direction.</p> <p>6 So, it was a different approach in</p> <p>7 that way.</p> <p>8 Q Okay. And so, when you say that</p> <p>9 O'Brien and company were happy to have the risk go</p> <p>10 in the opposite direction, can you explain what</p> <p>11 you mean by that?</p> <p>12 A Yeah. So, when -- in their --</p> <p>13 In their analysis that only looked at</p> <p>14 prospective data, the hazard ratio was, I think,</p> <p>15 1.02 in one of the analyses, which is basically</p> <p>16 null.</p> <p>17 And then, in scenario 4 that we talked</p> <p>18 about here today -- as just an example -- it was</p> <p>19 1.82. So it was skewed well away from the 1.02,</p> <p>20 compared with what it had.</p> <p>21 And, in our work, we've tried very</p> <p>22 hard not to have the imputation, all by itself, be</p> <p>23 the reason for a positive finding or a negative</p> <p>24 finding; that we believe that the data that we've</p>
<p style="text-align: right;">Page 279</p> <p>1 THE REPORTER: I'm sorry, regarding</p> <p>2 what?</p> <p>3 A Uterine.</p> <p>4 Q Okay. Exhibit Number 27 was a paper</p> <p>5 on asthma that you wrote back in 2002?</p> <p>6 A Right.</p> <p>7 Q Did you use the same imputation</p> <p>8 methodologies that were used in O'Brien 2024?</p> <p>9 A Not identical. There was a very, very</p> <p>10 important difference.</p> <p>11 And, if you read down into it, what</p> <p>12 you'll see is that we did some sensitivity</p> <p>13 analyses to see what the effects were on the odds</p> <p>14 ratios. I think it was, odds ratios was our</p> <p>15 measure of risk.</p> <p>16 THE REPORTER: It was what?</p> <p>17 A Our measure of risk. I'm sorry.</p> <p>18 And so, what's really important about</p> <p>19 how we did it -- compared with how O'Brien and</p> <p>20 company did it -- is we knew we didn't want to</p> <p>21 distort the risk finding based on our imputation</p> <p>22 method.</p> <p>23 So, we wanted to assure that we had</p> <p>24 approximately the same risk measure and that our</p>	<p style="text-align: right;">Page 281</p> <p>1 collected are the truth of it.</p> <p>2 And we're trying to actually just be</p> <p>3 able to use more of it and get better precision of</p> <p>4 our estimates. We're trying to get the confidence</p> <p>5 intervals in tighter.</p> <p>6 Q And is there a difference between</p> <p>7 imputing data on one of many variables collected</p> <p>8 for an individual case, as compared to imputing</p> <p>9 the very key variable that you're trying to study?</p> <p>10 A It's a massive difference. I mean</p> <p>11 it's such a big deal.</p> <p>12 And so, you know, one of the</p> <p>13 discussions that we will have routinely is, how</p> <p>14 important is this variable, right?</p> <p>15 So, you know, if it's like, how much</p> <p>16 was somebody's income? A lot of people don't</p> <p>17 answer income.</p> <p>18 Well, maybe it doesn't have a big</p> <p>19 influence, and so you're not going to care that</p> <p>20 much.</p> <p>21 You know, and if somebody ends up like</p> <p>22 the median value for the income for the study, you</p> <p>23 won't skew things in either direction.</p> <p>24 But, you know, if in my study, for</p>

<p style="text-align: right;">Page 282</p> <p>1 example, we're looking at like air pollution and  2 we're trying to figure out if air pollution is a  3 cause of like asthma exacerbations -- if we're  4 missing most of the air pollution data, and then  5 we try to make a statement about it -- it's a  6 really, really risky undertaking to try to impute  7 or correct or whatever you want to call it, the  8 air pollution data because we missed it because  9 our methods didn't allow us to have it.  10 Q You were asked a question about talc  11 not being on the market in the United States at  12 all. I just want to be clear.  13 Dr. Diette, are you offering any  14 opinions about whether makeup, lotions, other  15 personal care products -- aside from Johnson Baby  16 Powder -- on the market in the United States,  17 whether or not they contain talc?  18 A I'm not.  19 Q You mentioned in your report  20 pleurodesis. Is pleurodesis a necessary medical  21 procedure that uses talc?  22 MS. PARFITT: Objection. Pleurodesis  23 was exhaustively examined in 2019 and forward, and  24 I will follow the rules counsel had set forth.</p>	<p style="text-align: right;">Page 284</p> <p>1 was --  2 MS. PARFITT: -- from --  3 MR. TISI: I think the --  4 MS. PARFITT: -- before.  5 MR. TISI: -- question was --  6 I think the question was, whether or  7 not Talcum Powder, cosmetic Talcum Powder had any  8 medical benefit?  9 MS. LEHMAN: No. I don't think --  10 MS. PARFITT: That wasn't the  11 question.  12 MR. TISI: That was --  13 MS. PARFITT: Any medicinal benefit?  14 MR. TISI: That was the question.  15 MS. PARFITT: I've got it written  16 down.  17 MS. LEHMAN: Well, do we agree,  18 Doctor, that there is a medicinal benefit to using  19 talc?  20 MS. PARFITT: The question was asked  21 and answered, and he said for chafing, and I  22 believe it was something else.  23 MS. LEHMAN: Okay.  24 MS. PARFITT: We're not going to do it</p>
<p style="text-align: right;">Page 283</p> <p>1 We haven't talked about pleurodesis.  2 I didn't inquire about pleurodesis today. We're  3 not going to talk about pleurodesis.  4 What's good for you is good for me.  5 MS. LEHMAN: I'm happy to rephrase.  6 You were asked a question about whether there are  7 any necessary medical procedures that use talc.  8 Would pleurodesis be an example of --  9 MS. PARFITT: Objection, counsel. I  10 did not ask that question.  11 MS. LEHMAN: The record will  12 reflect --  13 MS. PARFITT: The record will reflect,  14 but we're not going to talk about pleurodesis.  15 I wasn't allowed to talk about risk  16 factors in studies done by folks that he's worked  17 with at Johns Hopkins University, where they  18 listed the fact that talc was a factor to be  19 considered.  20 (Overlapping speakers.)  21 MS. PARFITT: We're not going to talk  22 about pleurodesis. We have examined  23 pleurodesis --  24 MR. TISI: And I think the question</p>	<p style="text-align: right;">Page 285</p> <p>1 again, counsel.  2 MS. LEHMAN: Guys, I'm going to ask my  3 question. If you want to object to it, that is  4 fine.  5 MS. PARFITT: Counsel, I objected, and  6 I was courteous to not then to go forward with my  7 question.  8 If you get this question, we're going  9 to go back -- we must go back then -- to the  10 earlier article by his colleague, and I'll finish  11 my question on that as well.  12 BY MS. LEHMAN:  13 Q All right. You know what, Doctor,  14 your report talks about the medical uses of talc,  15 correct?  16 A It does.  17 Q Now, you were not asked many questions  18 about your criticisms about O'Brien, but they're  19 set out in your report, correct?  20 A They are.  21 Q Okay. Now, when you were asked  22 questions about O'Brien 2020 -- I want to go back  23 to that -- what is the primary conclusion of  24 O'Brien 2020?</p>

<p style="text-align: right;">Page 286</p> <p>1 A That there is not a significantly 2 elevated risk of ovarian cancer with use of 3 peroneal talc. 4 THE REPORTER: For what? I'm sorry. 5 A I'm sorry. With use of peroneal talc. 6 Q And what was the conclusion of O'Brien 7 2020, when they looked at the subgroup of the 8 women who had patent tube systems? 9 MS. PARFITT: Objection. 10 A Well, in the paper, they said that 11 there was no significant difference between women 12 with, versus without, patent tubes, so that there 13 was -- 14 That was their conclusion. There was 15 no significant difference between the two groups. 16 Q What is your opinion -- to a 17 reasonable degree of medical certainty -- about 18 whether Talcum Powder causes ovarian cancer? 19 A I don't think there is sufficient 20 evidence to show that it does. 21 Q And what is your opinion -- to a 22 reasonable degree of medical certainty -- about 23 whether epidemiology has shown or not shown about 24 whether there is an association between Talcum</p>	<p style="text-align: right;">Page 288</p> <p>1 courses that I've taught are to physicians and it 2 includes, you know, GYN, ONC and oncologists 3 and -- sorry? 4 THE REPORTER: GYN, ONC? 5 A Yes. Sorry. That's right, GYN, ONC 6 and oncologists and other kinds of physicians. 7 Q Okay. Just for the court reporter's 8 clarification, when you say GYN, ONC, what do you 9 mean? 10 A Gynecologic. 11 MS. LEHMAN: All right. Those are my 12 questions. Thank you, Dr. Diette. 13 A Thank you. 14 EXAMINATION BY MS. PARFITT 15 Q Dr. Diette, just couple of questions. 16 Dr. Diette, you just testified that there really 17 was no difference between the hazard ratios for 18 women who had patent tubes versus those who did 19 not have patent tubes, as presented by O'Brien 20 2020? 21 A There was no statistically significant 22 difference between those two. I forget whether 23 they were relative risks or hazard ratios, 24 whatever the risk measures were.</p>
<p style="text-align: right;">Page 287</p> <p>1 Powder and ovarian cancer? 2 MS. PARFITT: Objection to the form. 3 A Well, generally speaking, there has 4 been a mixture of findings, right, with the case 5 control studies, you know, some of them showing a 6 positive association. 7 The prospective versions of the cohort 8 studies have not. And, you know, we're debating 9 the newest study -- which has added one of the 10 weaknesses of case control studies to a cohort 11 study -- which purports to find an association. 12 But I think even that one -- if you 13 look at just the prospective data -- fails to show 14 a significant association. 15 Q You were asked some questions about 16 your current practice. I want to follow up on 17 that. 18 Do you currently have an appointment 19 in the department of epidemiology? 20 A I do. 21 Q Okay. So, does your work in the 22 department of epidemiology include epidemiology 23 associated with cancer? 24 A At times it has. I mean like, so the</p>	<p style="text-align: right;">Page 289</p> <p>1 Q Okay. So, help me out here a little 2 bit. For women who did not have patent tubes, the 3 odds ratio was 1.7 with a point eight six to 3.37. 4 Now, under your theory of what is a 5 positive association and what is not, an 6 association that had a confidence interval of 7 one -- of rather .86, that crosses one, under 8 your -- under your definition of statistical 9 significance, that would not be statistically 10 significant, correct? 11 MS. LEHMAN: Object to the form. 12 A I don't think you're asking me about 13 the right study. 14 Q No, no. I'm just asking you that. 15 A No, no. But you're giving a specific 16 number. And I was -- 17 When I was answering the other 18 attorney's question, I thought we were talking 19 about O'Brien 2020, and I think you're asking 20 about O'Brien 2024? 21 Q No, O'Brien 2020. I'm looking at your 22 report. 23 A Okay. So, in other words, clarify. 24 So, for O'Brien 2020, and your question is, that</p>

<p style="text-align: right;">Page 290</p> <p>1 it's not a statistically significant finding for 2 the non -- 3 Q Patent. 4 A -- non-patent group, and I agree with 5 that. 6 MS. PARFITT: What now? 7 MR. TISI: I have to jump out. Call 8 me when you're done. It was nice to meet you. 9 A Take care. 10 Q So, if, hypothetically, a woman who 11 has studied -- whose study findings reveal that, 12 for a woman with patent tubes, the HR is 1.83 with 13 a confidence interval of 1.36 to 2.46, and you 14 compare a woman with not patent tubes, and the 15 confidence interval is 1.70, or, excuse me -- 16 hazard ratio is 1.70, with a confidence interval 17 of point eight six to 3.37, that is not 18 statistically significant? 19 A Excuse me, you're -- 20 Q Those are -- 21 A Those are numbers from O'Brien 2024? 22 MS. LEHMAN: Yes. 23 Q Okay. You have them in 2020. 24 THE REPORTER: You said they have them</p>	<p style="text-align: right;">Page 292</p> <p>1 report was, those are very, very similar. Those 2 are almost the same risk, 1.7 and 1.8 are very, 3 very similar to each other. 4 The one that is 1.7 has very few 5 women, like there is hardly any. There is like a 6 handful of women in that. 7 So, it would be hard to expect there 8 to be very tight confidence intervals. But the 9 point I made in the report is -- because I've 10 heard from some plaintiffs' reports, some 11 plaintiffs' experts -- and we had a little bit of 12 a debate here, too, about whether statistical 13 significance is worth anything. 14 But, for the folks who only look at 15 the number, right, and don't care about 16 statistical significance, I'm just saying, there 17 is a problem with that because now suddenly, 18 unlike O'Brien 2020 and 2024, now we have it in a 19 positive direction, 1.7 and 1.8, for either group. 20 So, if you are a believer in who cares 21 about statistical significance, all I care about 22 is how far away it is from zero. You've got two 23 nearly identical numbers, which are not compatible 24 with the patent tract hypothesis.</p>
<p style="text-align: right;">Page 291</p> <p>1 in 2020? 2 A Those aren't the right numbers for 3 2020. 4 Q Okay. Well, I'm asking. I said 5 "hypothetically." 6 A Oh. Well, I don't think it's 7 hypothetical. I mean, I think, it's a fact, 8 right. 9 So, I'll try to, without -- I can look 10 at the exact numbers, but I'm going to say, in 11 O'Brien 2024 -- after all the different 12 manipulations of the data, including, you know, 13 adjustment, replacement, correction and all of 14 those factors -- when they then looked at the two 15 groups of women, who were identified as patent 16 versus non-patent -- 17 Q Right. 18 A -- they found about a 1.8 hazard ratio 19 in those who were patent, that was statistically 20 significant, and a 1.7 that was not statistically 21 significant in the opposite group. 22 And so -- I lost a little of the 23 thread of your question. 24 My point in bringing that up in my</p>	<p style="text-align: right;">Page 293</p> <p>1 Q Okay. And I did understand that. But 2 what I want to make crystal clear, when I leave 3 today -- 4 A Yes. 5 Q -- is that your opinion today still 6 remains, that if it is not, a finding, study 7 finding is not statistically significant, it is 8 not evidence of an association? 9 A No, no. An association is an 10 association, but it's -- 11 Q Okay. 12 A An association can either be 13 statistically significant or not, and taking 14 into -- I'll wait for the question. 15 Q Go ahead. 16 A Okay. So, taking into account whether 17 it is or isn't statistically significant gives you 18 additional information about whether you're going 19 to believe that's like compatible with a causal, 20 you know, exposure or not. 21 Q Okay. That helps me. But you will 22 testify, in a court of law, that, if a study 23 finding has a confidence interval below one, that 24 is not technically statistically significant; that</p>

<p style="text-align: right;">Page 294</p> <p>1 those study findings are at least evidence of an 2 association?</p> <p>3 A They can be.</p> <p>4 Q They can be?</p> <p>5 A Yes.</p> <p>6 Q Okay. That's fair. I just want to 7 get that clear. I just want to get that clear. 8 Okay. All right.</p> <p>9 We talked about -- you just talked 10 about the scenarios, being scenario 1, where they 11 did no correction in the O'Brien 2024 on Table 2. 12 Table, scenario number 2 corrected for 13 contradictory data and assumed unexposed, if 14 unexposed, and they had a 1.17.92 to 1.49.</p> <p>15 Scenario 3 corrected for contradictory 16 data and assumed exposed, if unexposed, at a 17 moment, and they had a hazard ratio of 3.34 with a 18 confidence interval of 2.51 to 4.44.</p> <p>19 What is the midway between those two 20 numbers, a 1.17 and a 3.34?</p> <p>21 A I don't know, a --</p> <p>22 MS. LEHMAN: Object to the form.</p> <p>23 A -- two or so.</p> <p>24 THE REPORTER: Say it again?</p>	<p style="text-align: right;">Page 296</p> <p>1 imputed data to come up with this finding.</p> <p>2 It's exaggerated, by the way, in 3 O'Brien 2024, because, not only is there 4 imputation but there is also then replacement for 5 data that were incorrectly -- that were incorrect.</p> <p>6 And, by the way, we are only saying 7 that the women are incorrect if they were 8 inconsistent on two different time points.</p> <p>9 We don't even know if the women who 10 said the same thing twice were correct, right?</p> <p>11 But the ones who were incorrect, they 12 get changed. Their value gets assigned sometimes.</p> <p>13 Assuming that, for example, that a 14 woman who didn't report talc at baseline -- who 15 didn't even answer the question in follow-up -- 16 some of those women are assigned to be talc users.</p> <p>17 And that, to me -- it's like, how do 18 you think of that? Like how do you think that the 19 woman is so wrong that she said, no, to begin 20 with, and now you don't even know what she says on 21 follow-up, and suddenly she's a talc user?</p> <p>22 And so, it's a way to sort of like 23 exaggerate things tremendously without knowing 24 whether you are telling the truth.</p>
<p style="text-align: right;">Page 295</p> <p>1 A Two or so.</p> <p>2 Q Okay. The multiple imputations that 3 you performed in your Asthma in Older Patient 4 Study, what do you call it?</p> <p>5 It is not multiple imputation. What's 6 it called?</p> <p>7 A Some of it was. I mean, you pointed 8 out correctly that we used a mixture.</p> <p>9 Q Of single, variable and multiple?</p> <p>10 A As well as multiple. What I was 11 referring to was not something with a name.</p> <p>12 It's a way to be cautious because what 13 we don't want to do -- and, by "we," I mean my 14 research group and others that I know -- we don't 15 want to suddenly come up and say, "okay, we 16 collected these data and we have one finding, 17 which is, by the way, this thing seems harmless, 18 and only because we corrected it using our 19 procedure, now we are saying it's really harmful" 20 or vice versa.</p> <p>21 Because I think that lacks 22 credibility. And it really makes one have to 23 scrutinize very, very carefully why you're 24 comfortable, that only when you add in these other</p>	<p style="text-align: right;">Page 297</p> <p>1 Q Okay. And so that I understand your 2 opinions that you'll share before the jury, the 3 authors of the O'Brien 2024, and the peer 4 reviewers of the study methods and analysis that 5 were performed by the O'Brien, et al. authors for 6 the 2024, were wrong, were in error when they 7 selected scenario number 4? Is that your 8 response?</p> <p>9 A So, if -- to be very specific, I think 10 if they selected it as their favorite one, I think 11 that -- I can't --</p> <p>12 THE REPORTER: I'm sorry, their what? 13 Favorite?</p> <p>14 A As their favorite, right. I mean I 15 can't quibble with what they think is the best one 16 because I'm not them.</p> <p>17 I think it was wrong to select it as 18 the best one because it's -- it's an unbelievably 19 exquisite example of what happens when you take a 20 study that has a design that cannot be distorted 21 by recall bias, could not have, no matter what you 22 did with the original data and the prospective 23 data.</p> <p>24 You introduced data after the fact</p>



<p style="text-align: right;">Page 298</p> <p>1 that absolutely have the potential to introduce 2 recall bias. 3 Q Dr. Diette, I appreciate that, but 4 that's gone well beyond what my question was. I 5 do have a question. 6 MS. LEHMAN: Dr. Diette, please go 7 ahead and finish your answer. 8 MS. PARFITT: I think he answered my 9 question. I think he went on to answer other 10 questions, but I think you answered my question. 11 Q And my question, the one question I'm 12 asking you is, the authors of O'Brien 2024 did 13 adjust for recall bias. That was a part of their 14 study, correct? 15 (Overlapping speakers.) 16 A They said so, but you can't -- 17 Q Wait. 18 A No. No. 19 Q Wait, just -- 20 MS. LEHMAN: Please let him -- 21 A No. 22 MS. LEHMAN: -- finish. 23 A No, no, no. No, no, no, no, no. 24 Q I'll let him finish. They said so, or</p>	<p style="text-align: right;">Page 300</p> <p>1 (Overlapping speakers.) 2 A Nobody can know. 3 Q Wait a minute. 4 A Myself -- 5 Q Let me ask you -- 6 A -- included. 7 Q -- you do not know, correct? 8 MS. LEHMAN: Objection. Asked and 9 answered. 10 A I can estimate. 11 Q I don't want you to estimate. You, 12 who did not perform the study analysis do not 13 know, correct? 14 A Wait a minute. Every finding in 15 O'Brien that you're referring to is an estimate, 16 right, so we are only talking about estimates. 17 And what I'm saying, if you look at 18 Schildkraut, there was a 41 percent increase in 19 the women -- 20 Q Doctor, I'm going to stop you, I 21 really am. 22 MS. LEHMAN: Please let him finish. 23 MS. PARFITT: No, Kate -- 24 MS. LEHMAN: Please stop interrupting.</p>
<p style="text-align: right;">Page 299</p> <p>1 did they write it into the article or into the 2 publication? 3 A Well, by "saying," I'm not talking 4 about verbally. I meant -- we're talking about a 5 written document. 6 Q Okay. 7 A But you can't adjust for it because 8 they don't actually know how much recall bias 9 there was. They said that. They do not know. 10 They don't know the truth of how bad 11 the amount of recall bias was that was introduced 12 into an otherwise prospective cohort study. 13 All they know is that they did 14 something that was almost never done. I've never 15 seen anybody go back to ask people later, for a 16 cohort study, and say, "hey, we kind of messed up. 17 We should have asked you this 20 years ago, but we 18 forgot and we didn't." 19 So, here are some questions that we're 20 going to try to fill in this gap. All of a sudden 21 you introduce the potential for recall bias into a 22 study designed that otherwise has zero potential 23 for it. 24 Q And you don't know either, do you?</p>	<p style="text-align: right;">Page 301</p> <p>1 MS. PARFITT: -- actually I'm not, 2 because, Doctor, this is something that frankly we 3 went four hours without happening; that has 4 happened in the past. 5 I have a very specific question that 6 I've asked you to answer. If counsel wants to 7 follow up, that's fine, and I'm not being 8 disrespectful. 9 I simply asked whether or not you know 10 how the recall bias was adjusted? 11 A I can't know what nobody on earth 12 knows. 13 Q I'm just going to check. He seemed to 14 have had an emergency there. I think we can 15 release you at that point in time. 16 A That sounds good. 17 MS. PARFITT: I appreciate it. I 18 don't have any further questions, and, Dr. Diette, 19 I appreciate the time that you spent today. 20 EXAMINATION BY MS. LEHMAN 21 Q Just one follow-up. 22 Dr. Diette, why don't you, please, 23 finish your answer in explaining the importance of 24 the recall bias, that you were talking about just</p>

<p style="text-align: right;">Page 302</p> <p>1 moments ago?</p> <p>2 We started talking about -- we were</p> <p>3 talking about O'Brien 2024, and then I think you</p> <p>4 were, you went to the -- what is it, 41 percent in</p> <p>5 Schildkraut?</p> <p>6 A Yeah. I'm just saying that I can</p> <p>7 estimate --</p> <p>8 MS. PARFITT: Object to the form of</p> <p>9 the question.</p> <p>10 A I can estimate what -- how much has</p> <p>11 been seen in another study, which is Schildkraut,</p> <p>12 where they -- the cases only increased their</p> <p>13 reporting of talc by 41 percent, with all of a</p> <p>14 sudden, like, while in the midst of there being</p> <p>15 litigation, you know, news.</p> <p>16 And what I put in my report was that</p> <p>17 there was as much as an 89 percent increase in</p> <p>18 recall bias introduced by their methods in this</p> <p>19 study.</p> <p>20 It may even be higher. It may be well</p> <p>21 over a hundred percent additional people, but,</p> <p>22 based on that one calculation, it was 89 percent.</p> <p>23 And my point there is, is they've done</p> <p>24 a figure where you literally can't adjust for what</p>	<p style="text-align: right;">Page 304</p> <p>1 MS. LEHMAN: All right. He will read</p> <p>2 and sign.</p> <p>3 (Deposition concluded at 3:30 p.m.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 303</p> <p>1 you don't know, but they've shown a figure that</p> <p>2 shows, from very little to a lot of recall bias.</p> <p>3 And they come up with something that's</p> <p>4 completely unhelpful for somebody who is trying to</p> <p>5 understand the result of the study, which is</p> <p>6 depending upon how much recall bias is -- and none</p> <p>7 of us can say we know the truth -- there is either</p> <p>8 a positive association, no association, or even a</p> <p>9 protective one, depending upon the degree of</p> <p>10 recall bias, which is unknowable.</p> <p>11 MS. LEHMAN: Thank you, Doctor.</p> <p>12 EXAMINATION BY MS. PARFITT</p> <p>13 Q Dr. Diette, is it true that, on page 4</p> <p>14 of the O'Brien study, the authors have a whole</p> <p>15 section discussing recall bias, and the fact that</p> <p>16 they investigated the potential impact of recall</p> <p>17 bias on the association between genital talc use</p> <p>18 and ovarian cancer?</p> <p>19 They also generated a single recall</p> <p>20 bias-corrected estimate, which also simultaneously</p> <p>21 corrected cases and non-cases; is that correct?</p> <p>22 MS. LEHMAN: Object to the form.</p> <p>23 Q Is that correct?</p> <p>24 A Yes, it is.</p>	<p style="text-align: right;">Page 305</p> <p>1 CERTIFICATE OF DEPONENT</p> <p>2 I hereby certify that I have read and</p> <p>3 examined the foregoing transcript, and the same is</p> <p>4 a true and accurate record of the testimony given</p> <p>5 by me.</p> <p>6 Any additions or corrections that I</p> <p>7 feel are necessary will be made on the Errata</p> <p>8 Sheet.</p> <p>9 (If needed, make additional copies of</p> <p>10 the Errata Sheet on the next page or use a blank</p> <p>11 piece of paper.)</p> <p>12 ERRATA SHEET</p> <p>13 Case: Johnson &amp; Johnson Talcum Powder Products</p> <p>14 Witness: Gregory Diette, M.D.</p> <p>15 Date: _____</p> <p>16 PAGE/LINE SHOULD READ REASON FOR CHANGE</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p>

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1 State of Maryland  
2 County of Baltimore, to wit:  
3 I, SUSAN M. WOOTTON, a Notary Public of the  
4 State of Maryland, County of Baltimore, do hereby  
5 certify that the within-named witness personally  
6 appeared before me at the time and place herein set  
7 out, and after having been duly sworn by me, according  
8 to law, was examined by counsel.  
9 I further certify that the examination was  
10 recorded stenographically by me and this transcript is  
11 a true record of the proceedings.  
12 I further certify that I am not of counsel  
13 to any of the parties, nor in any way interested in the  
14 outcome of this action.  
15 As witness my hand and notarial seal this  
16 \_\_\_\_\_ d *Susan M. Wootton* \_\_, 2024.  
17 \_\_\_\_\_  
18 Susan M. Wootton, RPR  
19 Notary Public  
20 My Commission Expires:  
21 June 12, 2027  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_

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## Federal Rules of Civil Procedure

## Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.



VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

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Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at [www.veritext.com](http://www.veritext.com).